

Report on the special report from the European Ombudsman to the European Parliament following his draft recommendation to the European Commission in Complaint 185/2005 /ELB

2009/2016(INI) - 05/05/2009 - Text adopted by Parliament, single reading

The European Parliament adopted by 598 votes in favour, none against and 14 abstentions, a resolution on the Special Report by the European Ombudsman to the European Parliament following his Draft Recommendation to the European Commission in Complaint 185/2005/ELB.

The complainant worked for the European institutions for more than 35 years as a freelance auxiliary conference interpreter (ACI), translating into French from Dutch, English, German, Italian and Spanish. In 2004, when he turned 65, he stopped receiving job offers from the two EU institutions. He turned to the Ombudsman, complaining that he was being discriminated against. Therefore, the Ombudsman opened an inquiry.

According to the Court of Justice, the principle of non-discrimination on grounds of age as enshrined in Article 21 of the Charter of Fundamental Rights of the European Union constitutes a general principle of Community law. A difference in treatment on grounds of age constitutes discrimination on those grounds, unless that difference in treatment is objectively justified and the means to achieve it are appropriate and necessary.

The Commission confirmed that it treated freelance conference interpreters over 65 differently because it needed to give opportunities to new, young interpreters. The Ombudsman was not convinced.

The Parliament recalls, in this regard, that, according to the European Court of Justice, the principle of non-discrimination on grounds of age, embodied in Article 21 of the Charter of Fundamental Rights, constitutes a general principle of Community law. According to this principle, the Commission **may not treat citizens differently on the basis of their age**, unless it shows that such treatment is objectively justified and the means to achieve it are appropriate and necessary.

According to the Ombudsman, the Commission has failed to justify adequately its treatment of freelance auxiliary conference interpreters (ACIs) over 65 years of age, and it considers that this constitutes an instance of maladministration.

In this context, the Parliament notes in its resolution that:

- it endorses the critical remarks of the European Ombudsman and his recommendation concerning the Commission's policy on hiring ACIs over 65 years of age;
- it calls on the Commission to change its current policy of imposing an effective ban on the recruitment of ACIs over 65 years of age. However, it does not consider that compensation is warranted in the circumstances of this case;
- after receiving a similar draft recommendation from the Ombudsman, it acted immediately to change its practice as regards the hiring of ACIs over 65 years of age and interpreted the applicable rules in a manner that does not lead to discrimination;
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- it considers that changing the applicable rules and removing age discrimination from the hiring process does not place a European institution under any obligation to recruit ACIs over 65 years of age, but would, if such a change were implemented, bring the Commission's rules into line with a general principle of European Union law, enhancing the institution's ability to secure the best possible service, given the shortage of interpreters.

Lastly, the Parliament calls on the Commission to work together with Parliament in reviewing the rules applicable to hiring ACIs and other staff, so as to ensure that discrimination of any kind is avoided.