

Letter from the European Ombudsman opening own-initiative inquiry OI/6/2007/MHZ relating to the European Commission

Correspondence - 26/06/2009

Case OI/6/2007/MHZ - **Opened on** 17/12/2007 - **Recommendation on** 26/06/2009 - **Decision on** 19/06/2009

Strasbourg, 17-12-2007 Mr José Manuel Barroso President of the European Commission 1049
Bruxelles BELGIQUE

Mr President,

During the joint inquiry into complaints submitted by scientists working as temporary agents in the three Institutes of the Joint Research Centre ("JRC") of the Commission ⁽¹⁾ [\[Link\]](#), a considerable amount of information was made available to me concerning the management of the Commission's scientific staff.

In my decisions closing the joint inquiry, I made the following further remarks:

- *The Ombudsman welcomes the initiative, announced in the letter of Commissioner Potočník to the Ombudsman, to review in detail the past practice of recruitment in the JRC and incorporate any possible lessons into future competitions. In this context, the Ombudsman will consider whether it could be useful to open an own-initiative inquiry into the management of human resources at the JRC.*
- *The Ombudsman welcomes the Commission's statement that it may organise, on a case-by-case basis, internal competitions should the interests of the service require it, and that any such future competitions will be held under the supervision of the relevant Director-General in compliance with the established criteria. In this context, the Ombudsman takes the view that the Commission could usefully review the status of the members of the JRC research staff, who occupy, as temporary agents, permanent posts with contracts of indefinite duration.*

By letter dated 11 July 2007, the Commission responded to the above further remarks. The Commission stated that improvements in the practices for recruitment in the JRC have resulted in better quality control of vacancy notices and the establishment of clear guidelines on their drafting. The Commission also stated that the Appointing Authority is now jointly DG ADMIN and the JRC, including for the new recruitment of officials within the JRC. The Commission also stated that it remained at the Ombudsman's disposal in relation to a possible own-initiative



inquiry.

As regards the second further remark, the Commission indicated internal competitions could be organised on a case-by-case basis, if the interest of the service so requires.

After careful consideration of the information available to me concerning the management of human resources at the JRC, I have decided to open an own-initiative inquiry into that subject.

I note that in 2001 the Commission presented to the Council and to Parliament its new policy concerning " *Research staff policy changes in the context of the reform of the Commission's human resources* " in the document COM(2001)792 final. This communication was adopted following the Memorandum from Mr Kinnock and Mr Busquin to the Commission, in agreement with the President of the Commission and in association with Mrs de Palacio, Mr Fischler and Mr Liikanen, entitled " *Review of Research Staff Policy* " (SEC (2001)1869). In that Memorandum, it was proposed, *inter alia* , that the establishment of the temporary research staff which was recruited following the selection procedure should be appointed to/receive 65% to 90% of the permanent posts in the field of research for every service concerned and that the temporary agents who had been laureates of the internal or external competitions should be established. The same Memorandum also referred to the modern policy of management of the research staff which should achieve two objectives, namely (i) reinforce the necessary competences in order to allow the execution of the permanent tasks in the framework of the Community's research policy and (ii) ensure a margin of flexibility in order to face the changing needs in the field of scientific expertise. In this respect and in order to carry out the above objectives, it was proposed in the Memorandum that the Commission should revise, *inter alia* , the specific powers of the Appointing Authority in the research sector while respecting the relevant decisions concerning the decentralisation of powers.

I also note however that, in the course of the above-mentioned joint inquiry, which took place almost five years after the Memorandum and corresponding communication had been adopted, the Commission stated that it had not respected the proposals contained in the Memorandum and failed to offer any explanation as to whether, in the meantime, any other guidelines had been made binding on it (2) [\[Link\]](#). This statement by the Commission made in the framework of the above-mentioned joint inquiry raises a general question about the openness and transparency of the current human resources policies for research staff and about the general organisation and governance of this important sector of the Commission's activities.

I therefore consider it useful to give the Commission the opportunity to explain, through the present own-initiative inquiry, how the announced modernisation of its research staff management, to which the Memorandum and respective communication referred, has been carried out in practical terms and to provide an assessment of the implementation and overall results of that modernisation and of any further developments that may be needed.

I would therefore very much welcome it if the Commission could:

(i) explain the objectives and principles of its policy as regards the management of human



resources in the scientific field;

(ii) explain how those objectives and principles are operationalised as regards recruitment, mobility and career development. Please indicate the specific documents on which the management of scientific staff is now based and whether new policy decisions or guidelines have been adopted in the context of the implementation of the new Staff Regulations. In this context, please also explain in detail the statement in the letter of 11 July 2007 that "improvements in the practices for recruitment in the JRC have been implemented";

(iii) explain the division of responsibilities within the Commission and the respective degree of autonomy concerning staff management between the Brussels Headquarters of the JRC, the different research sites and DG Administration; and indicate whether any alternative approaches were considered and why were they rejected;

(iv) indicate whether it has encountered any problems with the system of shared responsibility and whether it considers this system to constitute a long-term solution. Please explain specifically how the interests of the service are identified in the system of shared responsibility, including in this context reference to the situation of the 16 complainants in the joint inquiry;

(v) indicate the conclusions and the lessons that it has drawn from the announced review of its past practice of recruitment in the JRC, particularly with respect to the numerous competitions of the JRC 2004 establishment procedure in relation to which, in the joint inquiry mentioned above, the Ombudsman found a *prima facie* evidence of maladministration.

I would be grateful if the Commission could annex to its opinion statistical information on the breakdown of persons carrying out scientific tasks at the JRC, namely, officials, temporary agents (and of which kind), contract agents, researchers, fellows, trainees, SNEs.

The Commission is invited to submit its opinion by 31 March 2008.

My legal adviser Ms Marta Hirsch-Ziembinska (tel.: 33 388 172746) will be responsible for the case.

Yours sincerely,

P. Nikiforos DIAMANDOUROS

(1) [\[Link\]](#) 2075/2005/(ELB)MHZ, 2079/05/MHZ, 2274/05/MHZ, 2275/05/MHZ, 2276/05/MHZ, 2349/2005/(OV)MHZ, 2354/05/MHZ, 2666/2005/(BB)MHZ, and 3685/2005/MHZ.

(2) [\[Link\]](#) The Commission stated that " [the establishment procedure to which the joint inquiry referred] took place contrary to a specific policy (SEC(2001)1869) ".