



P. Nikiforos Diamandouros
European Ombudsman

Ms Verena Ross
Executive Director
European Securities and Markets Authority
103, rue de Grenelle
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Strasbourg, 12 -08- 2013

Own-initiative inquiry OI/4/2013/CK concerning the EU Agencies

Dear Ms Ross,

On 30 April 2013, in the decision closing own-initiative inquiry OI/4/2012/CK concerning the European Centre for the Development of Vocational Training (Cedefop)¹, I announced my intention to examine, in the framework of an own-initiative inquiry, the different practices adopted by the EU Agencies regarding the issue of disclosure of the names of Selection Board members.

At the outset, I note that views as to the correct balance between openness and the legitimate needs of confidentiality in the work of selection boards have evolved in the direction of giving greater weight to openness. Both EPSO and the Commission have an established practice, whereby they disclose the names of the members of selection boards. Such a practice guarantees transparency in selection procedures and allows candidates to ascertain that the selection procedure has not been vitiated by conflicts of interest. It thus helps to build and maintain public trust in the EU institutions, bodies, offices and agencies.

In the course of visits to a number of Agencies², I realised that some of them have not yet adapted their practices to those of EPSO and the Commission, or had not yet considered the issue. Of the Agencies that I have visited, only the European Environment Agency (EEA) has an established proactive policy of making available to the public the names of selection board members through its website³. I made a number of suggestions going in that direction in discussions with the other Agencies that were visited. The reactions to my suggestions were also diverse. While the European Chemicals Agency (ECHA) endorsed the Ombudsman's suggestions to provide the names of selection board members to all candidates⁴, some agencies hesitated to proceed to such disclosure.

¹ <http://www.ombudsman.europa.eu/en/activities/visitreport.faces/en/50148/html.bookmark>

² <http://www.ombudsman.europa.eu/en/activities/visits.faces>

³ <http://www.eea.europa.eu/about-us/jobs/selection-committee-members>

⁴ <http://www.ombudsman.europa.eu/cases/decision.faces/en/50278/html.bookmark>



The diversity in the approaches adopted by the different Agencies and their reactions to my suggestion motivated my decision to proceed with an own-initiative inquiry on this issue that covers all the EU Agencies.

Since I have not yet visited ESMA or had the opportunity to exchange views with it on this issue, I would be very grateful if it could clarify its policy as regards disclosure of the names of selection board members. In particular, I would invite ESMA to reply to the following questions:

1. Are the names of selection board members disclosed to candidates? If so, at which stage of the selection procedure? Are the names published proactively, or are they made available upon request?
2. In case your Agency has adopted a proactive policy of disclosing the names of selection board members, what are the measures it has taken in order to ensure compliance with data protection requirements?

I invite you to provide the requested clarifications by 30 November 2013.

Mrs Christina Karakosta (tel: +32 228 41141), a Legal Officer within Unit 3, will be responsible for dealing with this own-initiative inquiry.

Yours sincerely,

P. Nikiforos Diamandouros