



DEPUTY DIRECTOR

DIR/LEGAL/CFL/MF/mka/RB(2013)02602
Thessaloniki, 28 November 2013**Ms Emily O' Reilly**European Ombudsman
1 avenue du President Robert Schuman
CS 30403
F-67001 Strasbourg Cedex

SUBJECT

Policy of Cedefop as regards the disclosure of the names of Selection Board Members

REFERENCE: Your own-initiative inquiry OI/4/2013/CK, Ref. S2013-178829

Dear Ms O' Reilly,

In response to the draft recommendation of the European Ombudsman dated 17 October 2012 in the context of his own-initiative inquiry OI/4/2012/CK, Cedefop submitted on 31 January 2013 a detailed opinion with respect to its policy related to the disclosure of the names of Selection Board Members (Ref. DIR/LEGAL/CFL/MF/RB(2013)00120).

With regard to the Ombudsman's recent own-initiative inquiry OI/4/2013/CK concerning the practices adopted by EU Agencies regarding the disclosure of the names of Selection Board Members, I would hereby like to re-confirm Cedefop's policy on this matter as outlined in the detailed opinion of January 2013, and elaborate in particular as follows:

A. In light of the principle of good administration and transparency, the names of the members of the Selection Board are disclosed proactively to all pre-selected candidates of a selection procedure during the interview phase, more specifically shortly before the interview starts. In addition, the capacity and functions of the members of the Selection Board as staff members are at the same time communicated to the candidates.

It is considered that the direct contact of the Selection Board with the candidates at this point of the procedure cannot result in any infringement of impartiality, as the interviews concern a limited number of candidates that have already been pre-selected on the basis of their qualifications and are structured and conducted on the basis of pre-defined questions and criteria. Moreover, any conflict of interest is highly unlikely to arise, as all members of the Selection Board are required to sign

a declaration on the absence of conflict of interests before the initiation of the selection procedure. For reasons of impartiality, any contacts between the candidates and the Selection Board members are clearly prohibited at any other stage of the procedure. Candidates can however be fully informed, guided and assisted on the selection procedure by the competent HR staff members.

B. Cedefop does not disclose the names of the members of Selection Boards in selection procedures to the general public, e.g. on its website. Such a disclosure would be considered contrary to specific legal and procedural provisions to which Cedefop as an EU Agency is bound, including EU data protection rules, as well as the respect for the privacy and integrity of individuals.

In particular, the names of Selection Board members constitute personal data and therefore fall under the provisions of both **Regulation (EC) No 45/2001** of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data and **Regulation (EC) No 1049/2001** of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents which applies to documents of Cedefop in accordance with Article 14a of its Founding Regulation. On the basis of these Regulations, an unconditional or unrestricted disclosure of such data is not allowed. On the contrary, both Regulations provide for access to personal data only under specific requirements which are strictly defined in their text and on condition that the basic principles governing the right to privacy and the processing of personal data are fully respected and implemented.

The non-disclosure of the composition of the Selection Board to the general public is considered imperative also to ensure the secrecy of the decision-making process of the Selection Board, as provided for in **Article 6 of Annex III of the Staff Regulations**. The secrecy of the deliberations of the Selection Board is deemed indispensable for the objectivity of their judgment to be attained. It is considered that a different policy could expose the members to external pressure and would jeopardise the impartiality of the selection proceedings.

It is important to highlight that the non-disclosure of the composition of the Selection Board to the general public is particularly important for local EU Agencies of a small size, which is the case of Cedefop. The selection procedure conducted by Cedefop concerns specific posts destined for temporary agents and **not** officials and is therefore significantly distinct from the large-scale competitions for the establishment of a short-list of officials (civil servants) organised by EPSO. Given the small size of Cedefop and the nature of the selection procedure conducted by it, it becomes evident that the probability of external pressure and attempts of third parties to interfere with the selection procedure is considered more likely in the case of Cedefop compared to selection procedures organised by EPSO.

C. Cases where the disclosure of the names of the members of Selection Board is requested by specific persons/candidates that evoke the necessity to have access to such information are examined *ad hoc* on a case-by-case basis and any decision on the disclosure is reached following an in-depth analysis of the circumstances of each situation. In particular, such requests are reviewed individually under the scope of the legal and procedural provisions illustrated above. It is reiterated that both Regulation (EC) No 45/2001 and Regulation (EC) No 1049/2001 provide for specific conditions under which the disclosure and processing of personal data is allowed. Access to the requested information is therefore granted under the condition that the protection of personal data and of the privacy and integrity of individuals are safeguarded and only following the informed and free consent of the persons involved.

Yours sincerely,


Christian F. Lettmayr
Deputy Director