

Brussels, 28 May 2002  
SP/ip D(02) 632

Mr Jacob Söderman  
European Ombudsman  
1, avenue du Président Robert Schuman  
B.P. 403  
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*Dear Jacob,*

I note that you recently published your Annual Report for 2001 in which you criticise, in particular, the alleged late implementation of improvements relating to three issues falling within my portfolio responsibility:

- the abandonment of the use of age limits in competitions,
- the indirect discrimination against female seconded national experts (SNE) and
- the rules on parental leave.

Your Report also mentions your own initiative inquiry on the freedom of expression of officials.

I take this opportunity to re-assure you that, while I recognise that your concern is well-motivated, it is not necessarily accurate and up to date. In reality, considerable progress has been made on all three of these files as well as on a substantial number of other areas of Reform as set out in our White Paper published in March 2000. The details of the state of play on these dossiers is as follows:

On the subject of the **freedom of expression** of the staff of the European Commission I welcome the fact that you have accepted the steps proposed by the Commission to provide officials with an administrative guide to explain the application and interpretation of the rules in the Staff Regulations and to modify Art. 17(2) of the Staff Regulations.

As announced in the Commission's communication to you of 29 November 2001, I can inform you that the Directorate-General for Personnel and Administration has already published the first part of the administrative guide (volume 9 on grading) on the Commission's intranet. Volume 12 on Director-Generals will be published at the beginning of June. A draft text for a further volume on the rights and obligations of officials is in the process of internal legal scrutiny and will hopefully be ready before the summer-break.

On the proposed modifications to the Staff Regulations - also announced in the Commission's communication of 29 November 2001 - you will know that the Commission has proposed a profound revision of the whole Title 2 on rights and obligations of officials including Art. 17(2) on the freedom of expression.

On the **abandonment of the use of age limits in competitions** you also wrote to President Prodi on 7 March 2002. His reply (prepared by my services) set out in detail the position of the Commission regarding the points you raised and in particular re-iterated my decision to abolish age limits for all competitions run by the Commission with immediate effect. I have noted with satisfaction your press release of 8 May 2002 welcoming this decision of the Commission.

On the issue of "**indirect discrimination against female Detached National Experts**" I have taken note of your special report of 15 November 2001 to the European Parliament regarding the complaint by Mrs. Caroline Potter (242/2000/GG). I am pleased to inform you that the Commission Decision on "Rules applicable to national experts on secondment to the Commission" was adopted on 30 April 2002. The Decision includes detailed rules as regards maternity leave (Article 15) as well as part-time and flexible working hours for DNEs (Article 12). For your information I enclose a copy of this Decision.

I note the fact that in paragraph 1.5 of your closing decision of 26 February 2002 of your own initiative inquiry on **parental leave** for officials and other servants you point out that "The Ombudsman considers that the Commission is at present taking steps that are likely to remedy the lack of adequate rules on parental leave for officials and other servants of the European Communities in the near future. The Ombudsman, therefore, takes the view that his own-initiative inquiry has achieved its purpose and that there is no need to pursue it further."

As you know, the intended new rules on parental leave need to be incorporated into a revised version of the Staff Regulations. You will also be aware of the binding procedural rules which the Commission has to follow in consulting on these new Regulations, and of the time needed to comply with all the necessary steps. Following the vote of the inter-institutional Staff Regulations Committee on 9 April 2002 the formal adoption of the draft Regulation amending the Staff Regulations took place on 24 April 2002. The Commission's proposal was then forwarded to the Council and to the other Institutions.

I can also inform you that the General Affairs Council adopted conclusions on 15 April 2002 in which the Council committed itself to make every effort to finalise negotiations on the Reform package by the end of June 2003. The Council (and the Commission) also request the other Institutions to submit their opinions before the end of this year. I am sure that you will understand that a further acceleration of the legislative process is not possible.

If you wish to discuss these or other matters relating to my portfolio directly with me, or with my Director General for Personnel and administration, we would of course be pleased to meet with you.

Meanwhile, I know that you will understand that in making many of the necessary reforms – particularly those that require legislative change - the Commission has no controlling power over the pace of progress or timetables. In addition, since many of the reforms are profound they require intensive and extensive consultation. Even with these procedural and legal inhibitions on speed, the Commission will achieve bigger changes more quickly and at lower cost than any comparable administration. In these circumstances, whilst not asking for unjustifiably favourable treatment of the efforts being made by the Commission and its staff, I do think it reasonable to ask for understanding.

*Yours sincerely,*  
*Neil*

Neil Kinnock

Copy: Mrs. Loyola de Palacio, Vice-President of the European Commission

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