



---

P. NIKIFOROS DIAMANDOUROS

christoph.then@testbiotech.org

Mr Christoph Then  
Testbiotech e.V.  
Frohschammerstr. 14  
München 80807  
ALLEMAGNE

Strasbourg, 25 -05- 2010

**Complaint 775/2010/ANA**

Dear Mr Then,

On 26 March 2010, acting on behalf of TestBiotech e.V., you made a complaint to the European Ombudsman against the European Food Safety Authority (EFSA), which concerns the alleged failure of EFSA to address the potential conflict of interest in relation to the move of a departing staff member to a biotechnology company.

I have asked EFSA to submit an opinion on the following allegation and claims.

Allegation:

*EFSA failed adequately to address the issue of a potential conflict of interest in the move of its Scientific Co-ordinator and Head of its GMO Unit to a Swiss-based biotechnology company.*

In support of its allegation, the complainant argues that EFSA should, in accordance with Article 16 of the Staff Regulations, either have forbidden the move or have imposed conditions on it.

Claims:

*(1) EFSA should acknowledge that it failed to act to prevent a potential conflict of interest in this case.*

*(2) EFSA should commit itself to adopt a more pro-active and critical approach in the future as regards its procedures for departing staff.*

I have noted that you also made the following claim:

*EFSA should impose restrictions on the former employee's lobbying activities to influence EFSA.*

On the basis of Article 228 of the Treaty on the Functioning of the European Union, I consider that there are insufficient grounds for me to inquire into this claim for the following reasons:

Pursuant to Article 16 of the Staff Regulations, an official wishing to engage in an occupational activity relating to the work carried out at an institution, within two years of leaving its service, must apply for authorisation from the Appointing Authority. The Appointing Authority may refuse to give its authorisation or it may set conditions to it.

On the basis of the information provided, the official concerned left EFSA's service on 31 March 2008. Regardless of whether she was under an obligation to apply for an authorisation to engage in an occupational activity and the corresponding EFSA discretion to refuse it, more than two years, within the meaning of Article 16 of the Staff Regulations, have passed since her departure from EFSA's service.

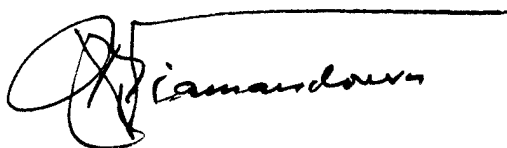
In accordance with Article 2(2) and Article 3(1) of the Statute of the European Ombudsman, I informed EFSA of your complaint and invited it to submit an opinion on the allegation and claims included in my inquiry by 31 August 2010.

After I have received EFSA's opinion, I will forward it to you with an invitation to make observations and submit them to my office within one month of receiving the opinion.

Once my office receives your observations, or the deadline has passed, the Legal Officer responsible for your case, Dr Antonios Antoniadis, Tel. +33 388173768, will then examine your file. I will inform you if I need to inquire further into your complaint before making a decision on it.

Every effort is made to deal with cases as quickly as possible. I try to reach a preliminary conclusion in an inquiry on a complaint within one year of opening it.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Nikiforos DIAMANDOUROS', with a long horizontal line extending to the right from the end of the signature.

P. Nikiforos DIAMANDOUROS