Testbiotech e. V. | Frohschammerstraße 14 | 80807 München

The European Ombudsman
P. Nikiforos Diamandouros
1 Avenue du Président Robert Schuman
CS 30403
FR- 67001 Strasbourg Cedex
France

24 February 2011

Complaint 775/2010/ANA/ letter 13-12-2010

Dear Mr Diamandouros

Thank you very much for sending Testbiotech EFSA's reply dated 30 November 2010. We would like to file the following observations:

We emphasize once more that the move from Dr. Renckens from EFSA´s GMO Unit to the biotech company, Syngenta, without a cooling off period afterwards is not acceptable from the perspective of public interest and is in contradiction to EU staff regulations. Conflict of interests have to be avoided during employment as well as after leaving the service. As Article 16 of European Staff regulations states: *"Officials intending to engage in an occupational activity, whether gainful or not, within two years of leaving the service shall inform their institution thereof. If that activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the legitimate interests of the institution, the Appointing Authority may, having regard to the interests of the service, either forbid him from undertaking it or give its approval subject to any conditions it thinks fit."*

Without doubt, the new work of Dr. Renckens at Syngenta is related to the work she carried out during her work at EFSA and is in conflict with the legitimate interests of the institution. Nevertheless EFSA did not take any initiative to prevent Dr. Renckens from moving to a job as a lobbyist for Syngenta, which is one of the biggest producer of

TEST BIOTECH
Testbiotech e. V.
Institute for Independent Impact Assessment in Biotechnology

Frohschammerstraße 14
80807 München
Fon.: 0 89 - 35 89 92 76
Fax: 0 89 - 359 66 22
info@testbiotech.org
www.testbiotech.org

Executive Director:
Dr. Christoph Then

Tax Number:
143/222/75510

Registered Office:
Munich

Registration Nr.:
Amtsgericht München
VR 202119

Bank Account:
Postgiro München
BLZ 700 100 80
Account-Nr. 525 88 08
IBAN DE51 7001 0080
0005 2588 08
BIC PBNKDEFF

genetically engineered plants. There is no doubt that the management of EFSA failed to fulfil its due diligence and its specific obligations according to EU staff regulations.

We also want to highlight another crucial issue. In their recent letter, EFSA again states that Dr. Renckens was not making direct decisions on GMO market applications. But (and as already pointed out in our previous comments) Dr Renckens, as a leading staff member, had many ways of influencing the work of the GMO Panel. EFSA's recent letter shows that Dr. Renckens participated in many relevant projects and meetings of EFSA and the GMO Panel.

In this regard, specific concerns arise from Testbiotech's investigations about Harry Kuiper (Chair of the GMO Panel) and his activities at ILSI (International Life Sciences Institute; please see attached Testbiotech Background from December 2010 for more details). Dr. Renckens and Dr. Kuiper were jointly leading work by the GMO Unit and the GMO Panel from 2003 till 2008. In this period of time many important decisions were taken by EFSA. For example the guidance for *risk assessment in food and feed* was adopted, several *opinions about applications* were published (amongst those were also applications from the company of Syngenta such as Bt11), the *risk assessment of maize MON863* was defended against independent counter expertise, and the *guidelines for monitoring* as well as the ones *on animal feeding trials* were elaborated and adopted. As the attached Testbiotech Background shows, ILSI explicitly claims that the work of the GMO panel was influenced by its *Task Force* during that period of time.

In the light of these findings, not only the role of Harry Kuiper (and some other members of the GMO Panel that have been cooperating with ILSI) has to be discussed, but also the role of Suzy Renckens. Apparently it was one of her tasks to help to avoid conflict of interests of the members of the GMO Panel. As it is stated in the "*Decision concerning the establishment and operations of the scientific committee, scientific panels and of their working groups*" document (Article 25 of the document as provided by EFSA in their recent letter) it is one of the specific duties of the Secretariat of the Scientific panels to ensure
"compliance with internal rules of the Authority such as those regulating the Declarations of interests, transparency et cetera."

Further, it is stated in the "*Implementing Act to the Policy on Declaration of Interests Guidance Document on Declarations of Interest*" (page 5 of the document as provided by EFSA in their recent letter) that
"*the role of the Chair of the Scientific Committee and Panels*" "*require separate assessment*".

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Furthermore it is explained:
"*Any Members that have one or more potential conflicts of interests should refrain from being a candidate for this role.*"

It is evident from reading these documents that Dr. Renckens was one of the persons that should have sorted out a potential conflict of interests, especially with regard to the chair of the GMO Panel. It seems that between 2003 to 2008 EFSA´s management took no steps to remove Mr. Kuiper from his position at the GMO Panel. One reason for this could be close collaboration between Dr. Renckens and Harry Kuiper. Such collaboration could have been preventing the Secretary of the GMO Unit from giving adequate notice about conflict of interests to the higher management.

This scenario might be seen as speculation. That is why we would find it recommendable that the Ombudsman investigates these scenarios by requesting further documents from EFSA. Especially relevant are documents regarding internal communications between Suzy Renckens, Harry Kuiper and the Executive Management of EFSA concerning any '*separate assessment of the role of the Chair*' of the GMO Panel and any specific measurements that were taken in this regard.

We do not want to put another burden on you by further mentioning the case of Harry Kuiper. But this case is closely related to Dr. Renckens' tasks and activities. We urge you to invite EFSA to present relevant material to counteract our concerns and put yourself into a position to come up with a final conclusion based on a sufficiently broad range of relevant information. We are still very concerned that the standards of transparency and independence of European institutions could be undermined if the case of Dr. Renckens is considered to be in accordance with EU regulations and if too many matters concerning the role of Dr. Renckens and her cooperation with Dr. Kuiper were to remain unclarified.

Please do not hesitate to contact us if you need further information.

With many thanks

Dr. Christoph Then,
Executive Director Testbiotech e.V.

(attachment: Testbiotech Background 1-12-2010)

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