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The European Ombudsman
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COMPLAINT ABOUT MALADMINISTRATION

1

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On behalf of Testbiotech e.V.,

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2

Against which European Union (EU) institution or body do you wish to complain?

European Food Safety Agency (EFSA)

3

What is the decision or matter about which you complain? When did you become aware of it?

EFSA allowed Ms Suzy Renckens, head of the agency's scientific panel on genetically modified organisms, to become head of 'biotech regulatory affairs' at Syngenta in May 2008 (just two months after leaving EFSA), without imposing any "cooling off" period or any comparable limits. We became aware of this case in November 2009.

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BIOTECH

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Impact Assessment in
Biotechnology

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4

What do you consider that the EU institution or body has done wrong?

Article 16 of the Staff Regulations stipulate that if the occupational activity envisaged “could lead to a conflict of interest” the Appointing Authority (in this case EFSA) may forbid the job move or “give its approval subject to any conditions it thinks fit”. Ms Renckens move to become a leading lobbyist for one of the major biotech companies in Europe involves obvious risks of conflicts of interest.

The publication just-food quotes EFSA's Steve Pagani, who states that "Ms Renckens verbally informed EFSA of her new appointment." Although EFSA then had the right to "take appropriate action", the authority accepted Dr Renckens' assurances about her move and determined that this was unnecessary ["EFSA official's move to Syngenta poses 'considerable problem'", just-food, 23 November 2009].

Only in November 2009, after Testbiotech had criticised the case, EFSA contacted Ms Renckens and “reminded her of her obligations in relation to confidentiality”. EFSA in its letter to MEP Jo Leinen argues that Renckens was not taking decisions on EFSA's scientific advice nor on authorisations or approvals and that there is therefore no problem. This reflects a far too narrow definition of conflicts of interest. In the case of Ms Renckens, EFSA should have introduced a lengthy cooling off period before she could move to work as lobbyist for Syngenta. At the very least she should have been instructed not to lobby to influence EFSA for a lengthy period of time. The European Commission regularly introduces such restrictions before authorising applications post-employment approval. It is unacceptable that EFSA failed to act to prevent conflicts of interest in the case of Ms Renckens, considering the agency's powers over food safety decisions in Europe. EFSA staff, as any other public officials, should be discouraged from negotiating future lobbying jobs while still in office, as this could influence their stance on issues affecting their future employers. In the first period after going through the revolving door, top decision-makers can exploit their previous status to unduly influence their former staff and colleagues. Imposing a cooling-off period and other restrictions is therefore crucially important.

5

What, in your view, should the institution or body do to put things right?

EFSA should acknowledge that it has failed to act to prevent conflicts of interest in the case of Ms Renckens' move to Syngenta. As the two-year period within which officials need permission has still not passed, EFSA should immediately impose a ban on Ms Renckens lobbying to

influence EFSA. EFSA should commit to a far more pro-active and critical approach to prevent post-employment conflicts of interest, including the introduction of cooling-off periods and other restrictions. This is something that the Staff Regulations already allows for.

6

Have you already contacted the EU institution or body concerned in order to obtain redress?

Yes: See attached communication with EFSA.

7

If the complaint concerns work relationships with the EU institutions and bodies: have you used all the possibilities for internal administrative requests and complaints provided for in the Staff Regulations? If so, have the time limits for replies by the institutions already expired?

Yes: See attached communication with EFSA

8

Has the object of your complaint already been settled by a court or is it pending before a court?

No

9

Please select one of the following two options after having read the information in the box below:

Please treat my complaint publicly

10

Do you agree that your complaint may be passed on to another institution or body (European or national), if the European Ombudsman decides that he is not entitled to deal with it?

Yes

Date and signature:

24/3/2010



Attachments:

- press release of Testbiotech, November 10, 2009
- letter from Testbiotech to EFSA, November 24, 2009
- answer from EFSA to Testbiotech, January 11, 2010
- press release of Testbiotech, January 14, 2010
- letter to the Commission by four NGOs, January 21, 2010
- answer from the Commission to Testbiotech, February 19, 2010
- just food: November 23 2010 by Alan Osborn