



**P. Nikiforos Diamandouros**  
European Ombudsman

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Strasbourg, 07 -05- 2013

Complaint 2167/2012/BEH and OI/13/2012/MHZ

Dear Mr Bunyan,

As announced in my letter dated 10 December 2012 please find enclosed a copy of Frontex's reply to my report dated 7 February 2013, in which I shared with Frontex the results of my visit to it. Any observations you wish to make on that reply could be submitted to my office by 30 June 2013.

In addition, please find enclosed a copy of my further letter to Frontex dated 7 May 2013.

Yours sincerely,

P. Nikiforos Diamandouros

Enclosures: 2

Warsaw, 24 February 2013

Ref. 3237/26.02.2013

**Mr. Nikiforos Diamandouros**

**European Ombudsman**

1, avenue du Président Robert Schuman

F-67001 Strasbourg Cedex, France

Your ref: Report OI/13/2012/MHZ

**Subject: Suggestions of the European Ombudsman further to his visit to Frontex on 4 October 2012**

Dear Mr. Diamandouros,

Following your letter of 7 February 2013, which refers to the report reflecting your visit to Frontex on 4 October 2012, I am pleased to inform you about the follow-up Frontex has made to your kind suggestions:

**a) Suggestion:**

Frontex could make its commitment to the principles set out in the European Code of Good Administrative Behaviour more visible to Union citizens by providing a link to its own Code of Good Administrative Behaviour and to the European Code of Good Administrative Behaviour on the homepage of its website.

**Frontex answer:**

After having finalised contractual negotiations, Frontex is about to modernise the information architecture of its website. That will open up the possibility to publish on-line all the missing information suggested by the Ombudsman such as:

1. The new Frontex Staff Code of Conduct (ED decision 2012/120 of 15 November 2012),
2. How to submit a request for access to documents pursuant to Regulation 1049/2001,
3. The rules applicable to such requests and the contact details of the function responsible,
4. The citizens' right to complain to the Ombudsman,
5. The Frontex Values and the Public Service Principles published by the Ombudsman,
6. Declarations of Conflicts of Interest for the Executive Director and the Deputy Executive Director.

**b) Suggestion:**

Frontex could already include, on the homepage of its new website, information concerning: (i) how to submit requests for access to documents and requests for information; (ii) the rules applicable to such requests and the responsible contact person; and, as promised, (iii) the citizens' right to complain to the Ombudsman.

**Frontex answer:**

See the answer a.

**c) Suggestion:**

The Ombudsman appreciates Frontex' plan to start operating a public register of its documents. He trusts that this will be done without delay.

**Frontex answer:**

We have a mid-term plan to build a comprehensive document management system that would include, as one of its sub-components, a register. As the principle of transparency is of the utmost importance for Frontex, by the end of 2013 or beginning of 2014, we will be ready with a temporary solution, giving citizens a better overview of documents produced by the agency, thus improving the accessibility of documents in line with the Regulation 1049/2001.

**d) Suggestion:**

Frontex could consider making arrangements to ensure that confirmatory applications for access to documents are not dealt with by the same persons as the initial applications.

**Frontex answer:**

Frontex will make arrangements to ensure that confirmatory applications for access to documents are not dealt with by the same persons as the initial application.

**e) Suggestion:**

Frontex could consider making available in all 23 EU official languages, at least the homepage of its website, as well as information concerning its functions and language policy.

**Frontex answer:**

Frontex already publishes documents fundamental to its work planning and annual reporting in all official EU languages on its website under the “Governance Documents” section. The agency is currently working on a new brochure explaining what Frontex is and how it operates. This publication will be translated consequently into more languages (budget permitting). Frontex will also be working on providing subtitles to the basic movie about the agency in a number of languages; starting with Italian, Greek, Spanish, French, German and Polish subtitles. As a next mid-term step, once translation is done, new language subpages will be created on the website.

**f) Suggestion:**

Frontex could consider adopting a decision that the names of selection board members may be disclosed on its website as regards each selection procedure.

**Frontex answer:**

Frontex is in a position where the disclosure of the names of the selection board to all applicants would create problems for the running of recruitment processes. Currently

communication is channeled through HR Sector. All information related to the content of the selection is provided by the selection board members and streamlined via HR. Disclosing the names creates the risk of questions being directly addressed to particular members. Disclosing selection board members' names does not seem to be an established practice among most EU institutions or bodies when recruiting CAs / TAs; the suggestion from the Ombudsman is an interesting one but the "cons" seems to outweigh the "pros".

**g) Suggestion:**

Frontex could consider adopting an internal review mechanism for unsuccessful candidates who complain about the selection procedures. A similar procedure could be adopted, *mutatis mutandis*, for unsuccessful applicants in tender procedures.

**Frontex answer:**

The information available on the website, as well as in the each published vacancy notice, includes instructions as to how to request additional information about the outcome of the selection and the avenues for appeal or complaint.

**h) Suggestion:**

The letter informing a candidate about the outcome of a selection procedure could include the candidate's own marks in interviews/written tests and the individual evaluation sheet. Such information should at least be provided upon request.

**Frontex answer:**

See answer g).

**i) Suggestion:**

In addition to the above information, the letter addressed to unsuccessful candidates could also include information on Frontex' internal review procedure and on their right to complain to the Ombudsman. Finally, candidates could be informed that they may lodge an administrative complaint pursuant to Article 90(2) of the Staff Regulations and turn to the EU Civil Service Tribunal. The same information, in general terms,

could be provided on the relevant section of Frontex' website as regards each selection procedure.

**Frontex answer:**

Frontex provides information about the appeal procedure. This is available in the respective part of the Agency's website. The information about the possibility of lodging a complaint to the Ombudsman will be added in the vacancy notices template and in the recruitment-related part of Frontex' website.

**j) Suggestion:**

The relevant section of the Frontex website containing information on the contract award notice for all open procedures and Frontex letters to rejected tenderers could contain information on the European Ombudsman's role in receiving complaints.

**Frontex answer:**

We agree that the Frontex letters to rejected tenderers could contain information on the European Ombudsman's role in receiving complaints. Any document used during procurement procedures is based on the European Commission's relevant template. As soon as the Commission amends its template, Frontex will be happy to apply it. Concerning the Frontex website, please be informed that we do not publish there any information regarding the contract award notice for open procedures.

**k) Suggestion:**

The Frontex Values and the Public Service Principles published by the Ombudsman could be made available on Frontex' website.

**Frontex answer:**

See the answer a.

**l) Suggestion:**

Frontex could develop specific templates of Declarations of Conflicts of Interest for the Executive Director and top management and it could ensure that the above declarations are made available on its website.

**Frontex answer:**

Frontex developed the templates in question few years ago and since then they have been in use. The Declarations of Conflicts of Interest of the Executive Director and the Deputy Executive Director will be published on the website.

**m) Suggestion:**

Frontex could develop specific templates of Declaration of Conflicts of Interest for its seconded national experts.

**Frontex answer:**

Frontex will use the existing Declaration of Conflicts of Interest form (applicable for TA and CA staff) for Frontex seconded national experts.

**n) Suggestion:**

Frontex could complete its already comprehensive guidance in the document entitled "Reporting on suspected improprieties", published on 18 January 2010, with the information that, in cases where a staff member decides to turn to the Ombudsman by virtue of Article 22b of the Staff Regulations, the Ombudsman will deal with his or her concerns in the same procedural way as when dealing with complaints.

**Frontex answer:**

Frontex will complete the relevant guidance by the end of March 2013.

**o) Suggestion:**

As regards the draft Manual of procedures for the application of the implementing rules on the Frontex policy protecting the dignity of the person and preventing psychological harassment and sexual harassment, which was mentioned by Frontex in

its presentation on whistle-blowers, the Ombudsman encourages Frontex to adopt the relevant rules without delay.

**Frontex answer:**

Frontex is planning to adopt a Management Board Decision in relation to preventing psychological harassment and sexual harassment, including a manual of procedures, in the course of 2013.

I remain at your disposal should you require any further information.

Yours sincerely,



Ilkka Laitinen

Executive Director





**P. Nikiforos Diamandouros**  
European Ombudsman

Mr Ilkka Laitinen  
Executive Director  
European Agency for the Management of  
Operational Cooperation at the  
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Strasbourg, 07 -05- 2013

OI/13/2012/MHZ

Dear Mr Laitinen,

On 24 February 2013, I received Frontex's reply to my report dated 7 February 2013, in which I shared with you the results of my visit to Frontex and made some suggestions for further improvement in the quality of administration by Frontex.

I am grateful for your prompt and largely positive reply. In particular, I highly appreciate the fact that Frontex took on board most of the suggestions in the report and took constructive action in relation to them. This clearly shows Frontex's firm determination to nurture and foster an administrative culture of service to citizens.

I believe, however, that some clarifications are still required in respect of two of my suggestions, on which I would like to give Frontex the opportunity to provide further thoughts and comments.

*Availability of the homepage of Frontex's website in all EU official languages/explanation of Frontex language policy*

*Suggestion e)* was that "Frontex could consider making available in all 23 EU official languages, at least the homepage of its website, as well as information concerning its language policy". In reply, Frontex stated that it already publishes documents fundamental to its work planning and annual reporting in all official EU languages on its website under the 'Governance Documents' section. Frontex is currently working on a new brochure explaining what it is and how it operates. If the budget permits this, the publication will subsequently be translated into more languages. Frontex will also be working on providing subtitles to the basic movie about the agency in a number of languages, starting with Italian, Greek, Spanish, French, German and Polish. As a next (mid-term) step, once translation is carried out, new language subpages will be created on



the website.

I would like to thank you for having provided the above useful information on a number of praiseworthy initiatives. However, in its reply, Frontex did not state whether it could make its homepage available in other languages besides English, and whether it intends to include on its homepage information about its language policy.

I trust that this will indeed be possible and, if Frontex were to confirm that it has followed these suggestions, it would join all the agencies which have already decided to do so (ENISA, EMA, Cedefop, CEPOL, EBA).

An agency like Frontex, whose work has such a strong human impact, should certainly, on its website, welcome all EU citizens in their own languages and indicate to them which sections or documents are available in all EU languages and which, on the contrary, may only be consulted in selected languages. The selection of languages could, in addition, be explained in terms of Frontex's language policy, thus enabling citizen's to understand, if necessary, the reasons why particular documents are available only in certain languages.

*Information to tenderers on the possibility to complain to the Ombudsman*

**Suggestion j)** was that "*Frontex letters to rejected tenderers could contain information on the European Ombudsman's role in receiving complaints*". In its reply, Frontex agreed with this suggestion. It stated, however, that any document used for the purposes of procurement procedures is based on the Commission's relevant template. As soon as the Commission amends its template, Frontex will be happy to use the amended template.

I would appreciate it if Frontex could confirm its readiness to follow my suggestion even in absence of a revision of the Commission's template. I would like to point out that other agencies, which also use the same templates (Cedefop, EEA), have agreed to include the information in question in their letters rejecting tenders, following my suggestion to that effect.

I would be grateful to receive a further reply from Frontex concerning the above two suggestions by 30 June 2013. Please feel free to contact the responsible person in my services to discuss the suggestions, if you think it would be useful to do so: Marta Hirsch-Ziembinska, tel. 33 388 17 27 46, [marta.hirsch-ziembinska@ombudsman.europa.eu](mailto:marta.hirsch-ziembinska@ombudsman.europa.eu)

Finally, I would also like to inform Frontex that I have decided to pursue my **suggestion f)** that Frontex "*could consider adopting a decision that the names of selection board members ... be disclosed ... as regards each selection procedure*" through a separate own-initiative inquiry, which will be addressed to all EU agencies, including Frontex, at a later date. The issue thus no longer forms part of the visit agenda.



Yours sincerely,

P. Nikiforos Diamandouros