



European Ombudsman

Emily O'Reilly
European Ombudsman

Mr Fabian FLUES
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Strasbourg, 01/12/2015

Complaint 1408/2015/OV

Dear Mr Flues,

On 3 September 2015, you submitted, on behalf of Friends of the Earth Europe (FoEE) and Corporate Europe Observatory (CEO) ("the complainants") a complaint to the European Ombudsman against the European Commission concerning the appointment of Mr Edmund Stoiber as Special Adviser for Better Regulation.

In your complaint, you made the following allegation and claims:

Allegation:

The Commission failed to comply with its *Rules on Special Advisers to the Commission* (in particular points 5) and 6) when appointing Mr Stoiber as Special Adviser to the Commission President.

Supporting arguments:

i) In support of your allegation, you argue that the Commission on 18 December 2014 publicly announced the appointment of Mr Stoiber as Special Adviser before examining, as prescribed by points 5 and 6 of the Rules, whether there was a possible conflict of interest. In doing so, the Commission pre-empted its services from carrying out an unbiased and critical examination as to whether there was a possible conflict of interest.

ii) You further point out that, even though Mr Stoiber had referred to it in his Declaration of activities, his positions in a German insurance company were not mentioned in the Commission's Statement of Assurance of 9 February 2015 as constituting a potential risk, and that the Statement did not state that Mr Stoiber should not deal with matters concerning that company.



Claims:

1. The Commission should acknowledge that its inactions amounted to maladministration and put measures in place to ensure that breaches of its Rules on Special Advisers do not occur again.
2. The Commission should clarify how it will minimise any possible conflict of interest arising from Mr Stoiber's current positions in the German insurance company.

As a first step of the inquiry, I informed you in my letter of 15 September 2015 that I asked the Commission for my services to inspect the Commission's file on the appointment of Mr Stoiber as Special Adviser, including the documents concerning the assessment by DG ADMIN, the opinion of the Legal Service, and the documents relating to the press release issued on 18 December 2014.

The inspection took place on 21 October 2015 and you will find enclosed a report of the inspection.

On the basis of the inspection, and in accordance with Articles 2(2) and 3(1) of the Statute of the European Ombudsman, I have now asked the Commission to submit an opinion on the above allegation and claims by 29 February 2016.

As soon as I receive the Commission's opinion, I will forward it to you with an invitation to make observations. Any observations you wish to make should be submitted 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, Mr Olivier Verheecke (tel: +32 2 284 20 03), 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,

Emily O'Reilly

Enclosure:

- Report of the inspection of 21 October 2015