



## Press release No. 7/2011

# Ombudsman asks Commission to demonstrate that it did not discriminate on the basis of age

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The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies. Any EU citizen, resident, or an enterprise or association in a Member State, can lodge a complaint with the Ombudsman. The Ombudsman offers a fast, flexible and free means of solving problems with the EU administration.

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**The European Ombudsman, P. Nikiforos Diamandouros, has told the European Commission to establish that it did not discriminate on the basis of age in the case of a successful candidate in a selection competition for assistants. The Dutch complainant was 63 years old at the date of the competition. The Ombudsman invited the Commission to submit a detailed opinion before 30 June 2011.**

#### **Alleged age discrimination of Dutch assistant**

In 2008, the complainant was successful in a selection competition for assistants with English as their main language to work in the European institutions. She was put on the relevant reserve list. At that time, she was 63 years old.

Between February and March 2009, the complainant was contacted by several Commission services concerning her possible recruitment as an official. She was not offered any posts. She was, however, offered work with the Commission on one-week contracts, essentially carrying out the same tasks that she would have had as an official.

In June 2009, the complainant turned to the Ombudsman, alleging that she had been a victim of age discrimination. She stated that, despite many efforts, she did not receive any explanations as to why procedures for her recruitment as an EU official came to a sudden halt. She added that she had been informed orally by the Commission that she should not expect to be recruited as an official at her age.

In its opinion, the Commission explained that it was under no obligation to recruit any candidate from reserve lists. It added that there was no sufficient evidence to establish that an oral communication regarding the complainant's age had indeed taken place.

The Ombudsman stated that the EU Treaties and the Charter of Fundamental Rights prohibit discrimination based on age. He also noted that the rules for EU staff foresee that, in cases where sufficient evidence is produced to justify a presumption of discrimination, it is up to the institution concerned to prove that discrimination has not taken place.

The Ombudsman found that the Commission had indeed never explained why the recruitment of the complainant as an official came to a halt, nor why the complainant was not deemed suitable for recruitment as an official to carry out the same tasks she eventually carried out on one-week contracts. He asked the institution to prove that no age discrimination occurred in this case. Furthermore, the Ombudsman advised the Commission that it should offer compensation, if age discrimination had occurred. The Ombudsman invited the Commission to submit a detailed opinion by 30 June 2011.

The Ombudsman's recommendation is available at:  
<http://www.ombudsman.europa.eu/en/cases/draftrecommendation.faces/en/10207/html.bookmark>