

**104/2013/JN**

**FURTHER CORRESPONDENCE  
REQUEST FOR REVIEW**

**Entrée number(s):**

E-2014186312

(use "from ... to" if multiple references)

**GENERAL FC** ☐

**RR REPLY** ☒

**SC REPLY** ☐

**14(3) PROPOSAL** ☐

**NOT CONFIDENTIAL** (scroll down to change)

Date of correspondence : 29/12/2013,  
24/02/2014  
Date registered : 03/01/2014  
Date of note : 19/02/2014

Name of complainant : [REDACTED]  
'represented by' (as  
relevant) : N/A  
Language : English

**BACKGROUND** (including date of original complaint, of the EO's reply and of any further correspondence that has already been dealt with)

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On 26/02/2010, the complainant submitted a first related complaint **543/2010/RT**.  
On 25/03/2010, that complaint was declared inadmissible (prior administrative approaches).

On 31/03/2010, the complainant renewed his complaint. The new complaint was registered under reference **841/2010/RT**.

On 26/05/2010, the EO adopted a no grounds decision (full decision).

On 02/09/2010, a detailed reply was sent to the complainant's FC - confirming the EO's decision of 26/05/2010.

On 4/01/2013, the complainant submitted complaint **104/2013/JN** in which he expressed the wish to renew his complaint 543/2010/RT.

On 29/01/2013, the EO informed the complainant that there were insufficient grounds to open an inquiry (simple letter). The letter stated that:

- In spite of the fact that the complainant only referred to the renewal of his complaint 543/2010/RT, the EO also took into account his complaint 841/2010/RT.
- The previous complaints received an extensive and detailed response from the EO in the decision of 26/05/2010, which was confirmed on 02/09/2010 in a detailed reply to the complainant's FC (the letter referred to points 6-7 of the Ombudsman's decision).
- The complainant's submissions did not contain any solid arguments demonstrating that the EO's assessment would have been erroneous. In addition, they were in substance the same as previously submitted. Therefore, the request for reassessment was not founded.

## **FURTHER CORRESPONDENCE** *(to which the present note relates)*

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The complainant requests review of his complaint *"in view of the resignation of the former Ombudsman and the fact that the new staff regulations will enter into force on 1 January 2014"*. He points out that under the new SR, *"any official having a grade above AD 12 will be considered outside the normal career structure"* which means that *"some of the officials upgraded by the Parliament Bureau decision of 2006 (...) will be affected"*. Allegedly also some of the complainant's colleagues will be affected including one who started working in 2002 like the complainant but is now AD12, while the complainant is AD9.

The complainant takes the view that the Ombudsman's decision of 29 January 2013 on his complaint is *"bad administration"* and lacks *"substantiated justification"*.

He asks that his case be reviewed by someone who has not been involved in the handling of his case since 2009.

Finally, the complainant asks the Ombudsman to *"investigate whether any officials in the Ombudsman's office were upgraded during the reign of the former Ombudsman following the 2004 reform of the staff regulations and then not regraded back following the Court's ruling in the Mediavilla case, as was the case in the Parliament."*

In addition, on 24 February 2014, he asked MHZ by email to meet him. He stated that he will drop in her office during the Parliament's session in order to be able to explain his case.

## **EXPLANATION OF PROPOSED REPLY**

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It should be noted that the complainant's complaint(s) to the EO has(have) already been examined several times by different members of the EO staff (RT, JN). In fact, on 26/05/2010, the EO adopted a full no grounds decision containing a detailed reasoning. On 02/09/2010, this decision was confirmed in a detailed reply to the complainant's FC. The complainant's complaint 104/2013/JN was, in substance, a further challenge of the EO's decision of 26/05/2010 and received a thorough reply on 29/01/2013.

The present FC does not contain any grounds which could put into question the past replies to the complaint(s). The complainant seeks to challenge the previous assessments because *a new Ombudsman has been appointed*. However, the election of a new Ombudsman does not provide any grounds to seek a review of a decision made by the previous Ombudsman. As such, and taking into account the number of times the complainant has already requested reassessment of his complaint (be it under the form of a FC, a "renewed complaint" or a request for review), there is no reason for yet another review of the matter .

Second, the complainant refers to the new SR. However, the new text cannot be relevant for the (past) facts examined in the EO's decision.

In light of the above, it is proposed to **confirm the assessment of case 104/2013/JN**.

It should be also explained that the EO's normal procedure is written and that meetings with the complainants are not foreseen in the relevant rules. There is no reason to make an exception in the present case.

MHZ, 27.02.14  
JSA, 28.02.14

## WALRAVENS Christophe

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**From:** EOdraftsSG  
**Sent:** 28 February 2014 12:03  
**To:** HIRSCH-ZIEMBINSKA Marta  
**Subject:** RE: request for revision 104-2013-JN  
**Attachments:** 0104-2013-JN let 2.doc; 0104-2013-JN review summary.doc

Dear Marta,

Please see the proposed changes and check their accuracy.

If you are happy I do not need to see the drafts again.

Best wishes,

Ian

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From: HIRSCH-ZIEMBINSKA Marta  
Sent: 28 February 2014 11:01  
To: EO-Secretariat General  
Subject: request for revision 104-2013-JN

Dear Ian,  
Please find enclosed the draft letter and note concerning the above request for revision, approved by Joao.  
Best wishes  
Marta