

**Question for oral answer O-000142/2013
to the Commission**

Rule 115

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on behalf of the S&D Group

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on behalf of the PPE Group

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on behalf of the Verts/ALE Group

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on behalf of the ALDE Group

Subject: Call for candidates for the Administrative Tribunal of the European Stability Mechanism

The ESM, in its capacity as an 'international financial institution', has recently published on its website a 'call for candidates' with a view to creating an Administrative Tribunal of five permanent judges, appointed for five years, who will not be eligible for any other office during this term. The ESM currently employs around 100 staff members. Article 17 of the draft Statute of the Administrative Tribunal of the ESM provides that 'if, following a request by the ESM, the Court of Justice of the European Union grants the ESM access to the jurisdiction of the Court of Justice of the European Union for staff matters via the Civil Service Tribunal of the latter, the [ESM] Tribunal shall be wound up ...'

Could the Commission explain:

1. What legal basis in the ESM Treaty provides for the establishment of an ESM Administrative Tribunal?
2. Would the establishment of an ESM staff tribunal not be manifestly disproportionate, since the ESM employs only around 100 staff members, and contrary to the principle of good administration and the appropriate use of public finances?
3. According to Article 17 of the Statute of the Administrative Tribunal of the ESM, the ECJ is authorised to hear ESM staff cases upon request by the ESM. Why, then, does the ESM not make such a request from the outset, rather than creating a new body? Or, alternatively, why does the ESM Board of Governors not adopt a provision granting such a role to the ECJ via its Civil Service Tribunal, as provided for in Article 5(7)(n) of the ESM Treaty, especially considering that in case C 370/12, *Pringle/Ireland*, the Court of Justice ruled that 'even though the ESM Treaty makes use of the Union's institutions, in particular the Commission and the ECB, that fact is not, in any event, capable of affecting the validity of Decision 2011/199, which in itself provides only for the establishment of a stability mechanism by the Member States and is silent on any possible role for the Union's institutions in that connection'?

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Forwarded: 9.12.2013

Deadline for reply: 16.12.2013