

Decision of the European Ombudsman on complaint 706/98/VK against the European Commission

Decision

Case 706/98/VK - Opened on 21/10/1998 - Decision on 25/05/1999

Strasbourg, 25 May 1999 Dear Mrs K., On 22 June 1998, you made a complaint to the European Ombudsman against the European Commission. In your complaint, you claimed that the Commission's notice which you received concerning your pension rights and its fiscal impact was unfair. On 21 October 1998, I forwarded the complaint to the President of the European Commission and asked him to comment on your complaint. The Commission sent its opinion on 29 January 1999 and I forwarded it to you with an invitation to make observations, if you so wished. I did not receive any observations from you. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

According to the complaint, the relevant facts were as follows: The complainant is the widow of a former Commission official of grade D. She receives a survivor's pension from the Commission. In January 1997, the Commission informed the complainant that her daughter would no longer receive the orphan's pension, as the daughter has reached the age of 26 years, and that her daughter could benefit from a tax allowance if she sent in a study certificate which proved that the daughter was pursuing her education. The complainant stated that she does not pay any taxes as her pension is very low. She considers it unfair that only recipients of large pensions benefit from this tax allowance and that she, as a widow with a small pension cannot benefit from it. Against this background, the complainant addressed the Ombudsman.

THE INQUIRY

The Commission's opinion The Commission stated that it based its assessment for the present case on Council Regulation 260/68 of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities. As regards the current complaint, it stated: *"The complainant has benefited from a survivor's pension since 1 December 1991, following the death of her husband, who was an official of the European Communities at the time of his death. The Assessment of Pension Entitlement granted a widow's pension equivalent to the minimum subsistence figure which is 100% of the basic salary of an official at grade D4/1. This amount being lower than the minimum taxable, there are no taxes at all to be paid by the recipient of this pension. In the absence of taxes, it is not possible to deduct any abatement on an amount, which does not exist."* **Further inquiries** The Ombudsman's service contacted the Commission by telephone in order to receive further information on the



particular notice which had been sent to the complainant. The notice in question, of which the Ombudsman has a copy, stated that the complainant's daughter can benefit from a tax allowance. The Commission declared that it uses standard letters to inform the recipient of a pension on the details of whether and from when on he/she was entitled to children's, educational or tax allowances. This standard letter did not relate to the actual amount of pension paid or to the fact whether the recipient pays any taxes on it. The Commission stated that it regretted that the complainant apparently misunderstood the standard letter. It declared that as the complainant does not pay any taxes at all, it seemed evident that she could thus not benefit from any tax allowance.

THE DECISION

1 Tax abatement 1.1 The complainant receives a survivor's pension from the Commission. The Commission notice stated that her daughter could benefit from tax allowances. At her request, she was told that this was not the case, as her pension income was below taxable minimum. The complainant claimed that it was unfair that only recipients of larger pensions could benefit from a tax allowance. 1.2 The Commission stated that, as the complainant's income was under the taxable income, she could therefore not benefit from any abatement of a tax amount which she did not pay. The Commission further stated that it was regrettable that the complainant misunderstood the standard form which it had sent to her. 1.3 The provision in question foresees a tax abatement for those pension receivers whose pension amounts are taxable. The complainant's pension is under the taxable minimum amount. That is why she enjoys exemption from tax. She can therefore not benefit from a tax allowance. There appears to be no evidence for an incorrect interpretation by the Commission. **2 Conclusion** On the basis of the European Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Commission. The Ombudsman has therefore decided to close the case. The President of the European Commission will also be informed of this decision. Yours sincerely Jacob SÖDERMAN