

Decision of the European Ombudsman on complaint 805/98/PD against the European Commission

Decision

Case 805/98/PD - Opened on 03/09/1998 - Decision on 30/06/1999

Strasbourg, 30 June 1999 Dear Mrs K., On 23 December 1998 you made a complaint to the European Ombudsman concerning the European Commission's payment of allowances and alimonies owed to you by your husband. On 8 September 1998 I forwarded your complaint to the President of the European Commission. The Commission sent its opinion on 23 December 1998 and I forwarded it to you with an invitation to make observation, if you so wished. On 26 February 1999 I received your observations. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The background to the complaint is in brief the following: In 1990 the complainant was separated from her husband who is a Commission official. The Belgian court order gave the complainant custody of their two daughters, as well as alimonies, family allowances and travel allowances. The court order was notified to the Commission who was obliged to pay alimonies and allowances directly to the complainant. In July 1998 the complainant complained to the European Ombudsman, alleging that the Commission had not discharged this obligation correctly, and that it had furthermore treated her improperly during her attempts at rectifying and clarifying the alleged errors. More specifically, she alleged that: 1 A Commission official who had written to the complainant refused to see her; he also failed to answer her written and oral questions. 2 There had been unjustified and unexplained fluctuations in the amount paid by the Commission to the complainant, and after one year the Commission wrongfully paid money directly to her husband. 3 An increase in her husband's salary had not been reflected in the alimony which the Commission paid to her. The complainant claimed that the Belgian court order obliged the Commission to automatically make this adjustment.

THE INQUIRY

The Commission's opinion The Commission stated that since 1990 it had received 12 judicial documents (10 from Belgium and 2 from Greece) relating to the divorce procedure and the financial consequences in terms of maintenance payments and family allowances. The Commission considered that it had fully complied with its obligations under both the Community Staff Regulations and Belgian law. Specifically on the three allegations stated above, the Commission provided the following comments: As for the first allegation, the Commission stated that the relevant Directorate General had always tried to reply in detail to all the



correspondence from the complainant and/or the numerous lawyers she had retained in the proceedings against her husband. She was also given information during the various meetings she had with the servants responsible, although at one point she was refused access to the Commission buildings because of her behaviour towards the officials in question. As for the second allegation, the Commission stated that it had always scrupulously complied with its obligations to pay her the money directly. The various fluctuations which did occur were not due to errors on the part of the Commission, but caused by other factors: first, several court orders had required adjustments of the amounts to be paid; second, the Commission had been obliged by a court order to pay money directly to one of the complainant's lawyers whom she owed money; third, the Staff Regulations required travel allowances to be paid directly to the complainant's husband; whether her husband complied with his obligation to pay her part of the allowance was not within the influence or responsibility of the Commission; fourth, in 1997 one of the couple's daughters who had then reached the age of eighteen asked the Commission to pay her entitlement of the maintenance to herself. In support of these comments, the Commission enclosed a large amount of correspondence. As for the third allegation about lack of correspondence between the allowance payment and the salary increase of the complainant's husband, the Commission stated that such indexation of maintenance payments is carried out under Belgian law only if expressly requested by the recipient. The complainant never made such request. **The complainant's observations** The complainant maintained her first and second allegations. As for her third point of complaint, she appeared to accept the Commission's information about Belgian law.

THE DECISION

1 The allegations 1.1 The complainant claims that the Commission has failed to properly discharge the duties imposed on it. She also claims that it has failed to deal properly with her attempts to clarify and rectify the alleged maladministration. **2 The extent of the Ombudsman's inquiry** 2.1 In handling this complaint, it should be recalled that the mandate of the European Ombudsman is strictly limited to Community institutions and bodies. It shall furthermore be recalled, that the European Ombudsman is specifically barred from questioning the soundness of court rulings. Thus, in so far as the Commission in the present case clearly acted in compliance with court orders, the Ombudsman must limit his inquiry accordingly. **3 The assessment** 3.1 As for the first allegation, the correspondence submitted by the complainant and the Commission shows that the complainant made numerous contacts with the Commission on the matter concerning the separation and divorce-proceedings between herself and her husband. It is also appears from the correspondence and the parties' comments that the Commission made genuine efforts to accommodate the complainant's request for information. In particular, the complainant was afforded the opportunity meet Commission officials on several occasions. It does not, therefore, appear that there has been maladministration by the Commission in this respect. 3.2 As for the second allegation, the Commission has not disputed that there were fluctuations in the amount paid by it to the complainant. However, the Commission's explanations for these fluctuations appear to be well-founded and reasoned. The complainant has not submitted evidence which would suggest that the Commission's reasons for modifying they payments were wrong. It does not, therefore, appear that there has been maladministration by the Commission in this respect. 3.3 As for the third allegation, the Commission has explained that under Belgian law it was not under a duty to automatically make



an indexation of the payments to the complainant. There is nothing to suggest that the Commission is wrong in this respect, which would furthermore appear to have been accepted by the complainant. It does not, therefore, appear that there has been maladministration by the Commission concerning the third allegation. **4 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