

## Decision of the European Ombudsman on complaint 142/99/BB against the European Commission

Decision

**Case 142/99/BB - Opened on 19/03/1999 - Decision on 30/03/2000**

Strasbourg, 30 March 2000 Dear Sirs, On 2 February 1999 you made a complaint to the European Ombudsman concerning the alleged maladministration by the European Commission regarding the reimbursement of marginal costs of Contract STD 3 TS3-CT94-0343 *"Biotechnological Approaches to the Total Utilisation of Crustacean Shellfish and Shellfish waste"*. On 19 March 1999, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 7 June 1999 and I forwarded it to you with an invitation to make observations, if you so wished. You did not send any observations. I am writing now to let you know the results of the inquiries that have been made.

### THE COMPLAINT

On 3 August 1994 the complainants had signed a marginal cost research contract in connection with Contract STD 3 TS3-CT94-0343 *"Biotechnological Approaches to the Total Utilisation of Crustacean Shellfish and Shellfish waste"* between the European Commission and the University of Nottingham. The complainants had received the normal 40 % of their marginal costs (44.000 ECU) in 1995. Later, DG XII sent a copy by fax indicating that PFD will be reimbursed only 50%. In 1997, the complainants complained repeatedly to the Project coordinator and Finance Manager but without success. On 25 January 1998 and 19 February 1998 they complained to the Commission DG for Science, Research and Development. The complainants claimed that they have complied 100 % with their project commitments, but only 50% of their marginal costs have been covered.

### THE INQUIRY

**The Commission's opinion** (i) *The Background* The contract was negotiated at the end of December 1994 and signed on 31 January 1995 by the Commission and the University of Nottingham. The complainants were associated contractors. Following the requests from the complainants and the fax from the University of Nottingham the Commission acted on their demand by preparing an amendment in March 1998. This amendment finalised the participation of the complainants on an additional cost basis rather than full cost basis, from the starting date of the project and thus met their request. Once the amendment was finalised, the Commission official responsible for the financial management of this file contacted the University of Nottingham on several occasions - through e-mails, faxes and letters - in order to clarify the costs submitted and request missing documents and information for the final payment. The



44.000 ECU referred to by the complainants as their total projected expenditure is an estimated figure. The contribution of the Commission is based on the actual costs of the participant. An advance payment of 40 % was paid by the Commission to the University of Nottingham in March 1995 for each participant. The Commission received the final period cost statements for most of the partners on 30 March 1998. These forms were incomplete and contact was initiated with the contractor via fax on 7 April 1998 to ask for clarification on the cost statements already sent and to ask for the outstanding cost statements to be sent to the Commission. *(ii) The Commission's opinion* The Commission received all the required financial statements on 12 April 1999 and the Commission initiated the final payment on this contract immediately afterwards. For the complainants this payment included the adjustments to the costs previously declared and thus represents the total amount that should have been paid in addition to what the participant already received. This meant that this participant has been paid for all acceptable costs, as a marginal cost participant.

## FURTHER INQUIRIES

As the complainants did not make any observations, the Ombudsman's secretariat contacted the company by telephone on 3 March 2000. The complainants expressed their complete satisfaction with the reimbursement of their marginal costs.

## THE DECISION

### **1 The reimbursement of marginal costs of Contract STD 3 TS3-CT94-0343**

**"Biotechnological Approaches to the Total Utilisation of Crustacean Shellfish and Shellfish waste"** 1.1 The complainants claimed that they have complied 100 % with their project commitments, but only 50 % of their marginal costs have been covered. 1.2 The Commission received all the required financial statements on 12 April 1999 and the Commission initiated the final payment on this contract immediately afterwards. For the complainants this payment included the adjustments to the costs previously declared and thus represented the total amount that should have been paid in addition to what the participant already received. This meant that this participant has been paid for all acceptable costs, as a marginal cost participant. 1.3 The complainants have expressed their complete satisfaction with the reimbursement of their marginal costs. **2 Conclusion** It appears from the Commission's opinion and the complainants' response that the Commission has taken steps to settle the matter and has thereby satisfied the complainants. The Ombudsman therefore closes the case. The President of the European Commission will also be informed of this decision. Yours sincerely  
Jacob SÖDERMAN