

Decision of the European Ombudsman on complaint 1166/99/OV against the European Commission

Decision

Case 1166/99/OV - Opened on 05/10/1999 - Decision on 16/11/2000

Strasbourg, 16 November 2000 Dear Mr Z., On 20 September 1999 you made a complaint to the European Ombudsman on behalf of the Alsace Regional Council concerning an alleged maladministration in the way the Commission dealt with the proposal "Destination Noël" from the Alsace Regional Council in the framework of the call for proposals under the ECOS-Ouverture Programme published in the Official Journal C125 of 22 April 1997. On 5 October 1999, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 3 January 2000 and I forwarded it to you with an invitation to make observations, if you so wished. You made no observations on the Commission's opinion. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

According to the complainant, the relevant facts were as follows: The complainant complained on behalf of the Alsace Regional Council which made an application for funding to the Commission (DG XVI) in the framework of a Call for proposals under the ECOS-Ouverture Programme, published in the OJ C 125 of 22 April 1997. The application was submitted to the Commission in September 1997 and was intended to support a project for the promotion of regional tourism around Christmas. According to the provisions of the ECOS-Ouverture Programme, this 'Destination Christmas'-project, led by the Alsace Region, included also the participation of cities from ERDF, TACIS and MED regions (Napoli, Turku, Rovaniemi, St-Petersburg and Bethlehem). The co-financing by the Union amounted to Euros 797.375. On 22 April 1998 the complainant was informed by DG XVI (Regional Policy and Cohesion) that its project had been pre-selected. However, further to a meeting which took place in Brussels on 7 May 1998, the complainant had to modify its proposal. A new application was therefore submitted before 15 July 1998. A decision of the Commission was announced for the month of July 1998. On 9 November 1998, the complainant was informed that its application fulfilled the conditions, but that the budget tables were not modified enough. Also, no co-financing was possible for the TACIS partner (St-Petersburg). The complainant then sent a revised budget proposal to the Commission before 20 November 1998. However, since that date not any information on the outcome of the application was received by the Alsace Regional Council. On 3 May 1999 Commissioner Wulf-Mathies replied to a letter from the complainant dated 16 February 1999 informing that the delay in the decision was due to an inter-service consultation necessary to co-ordinate the intervention of the 2 financial instruments which were ERDF and



MED. The complainant alleges that the ECOS-Ouverture programme would have been launched without the necessary guarantees for funding from DG I. After a meeting in June 1999, it appeared that DG I was not able to guarantee the financial coverage for actions in favour of MED regions under the ECOS-Ouverture programme, and that therefore, DG XVI renounced to the applications involving MED subventions. The complainant therefore wrote to the Ombudsman alleging 1) that since November 1998 no direct and precise information was received from DG XVI with regard to the final decision on the application of the Alsace Regional Council and 2) that DG XVI would have launched the ECOS-Ouverture Programme without the availability of funds being guaranteed by DG I.

THE INQUIRY

The Commission's opinion In its opinion, the Commission observed that the BETHLEEM 2000 project, which falls under the ECOS-Ouverture Programme, concerned networks of cities in the European Union, the PECO (Central and Eastern European Countries) and third Mediterranean countries which made common proposals on the theme of Christmas for the year 2000. Further to the termination of the funding by the MEDA Fund of MED programmes in 1995, the territorial Mediterranean collectivities directed themselves to the ECOS-Ouverture Programme which is rather directed to the co-operation of the European Union partners with partners from the PECO. This resulted in a considerable increase of demands for financial intervention in the framework of this programme. The Commission services have therefore tried during one year and a half to transfer the ERDF and MEDA funds within the ECOS-Ouverture Programme. If this transfer created no problem of principle, what had allowed the launching of the call for proposals, the concrete modalities allowing the financing of these type of projects in satisfactory conditions could not be established. Those difficulties arose mainly during the evaluation stage of the proposals. The difference between the rules governing the ERDF funds and the MEDA funds made indispensable a close collaboration between the services each responsible for the management of their funds. This collaboration however appeared impossible mainly because of the lack of human resources within the services responsible for the MEDA fund. The Directorate General Regional Politics, equally understaffed, could therefore not ensure alone this task. The Commission services are aware of the difficulties created by the decision not to fund the projects. They also acknowledge the efforts made to formulate such co-operation proposals which are difficult because of the geographical distances and the differences in socio-economic development. Therefore the Commission services examined the modalities allowing the financing of co-operation projects with third Mediterranean partners in the framework of the next INTERREG III initiative. However, each Fund participating in the co-financing of the project could only insure its own task and take its part of responsibility. Therefore, it was decided, in the security of the responsible of the project, his partners and the Commission, to finance only those projects which can be executed correctly. The complainant was kept informed of the situation and, on 1 June 1999, had a meeting on this issue with Commission officials. **The complainant's observations** In a telephone conversation on 21 September 2000 with the office of the European Ombudsman, the complainant observed that he had no observations to make. He only sent a copy of a letter sent on 27 October 1999 by Commissioner Barnier which confirmed that no funds were available for ECOS-Ouverture projects which involved Mediterranean partners.



THE DECISION

1 The alleged failure of information on the outcome of the application 1.1 The complainant alleged that since November 1998 no direct and precise information was received from DG XVI with regard to the final decision on the application of the Alsace Regional Council. The Commission observed that the complainant was kept informed of the situation and on 1 June 1999 had a meeting with Commission officials on the issue. 1.2 It appears from the file that the complainant's revised application for funding was submitted to the Commission before the deadline of 20 November 1998, and that on 16 February 1999 the complainant wrote to the Commission in order to ask for information about the outcome of the application. On 3 May 1999 Commissioner Wulf-Mathies replied to the complainant's letter stating that the revised application was subject to an ongoing inter-service consultation. The Commissioner observed that the time elapsed since the presentation of the revised application was indeed long, but that this was necessary in order to co-ordinate the intervention of two financial instruments, namely FEDER and MEDA. The letter stated that the complainant would be kept informed about the outcome of the application. 1.3 On 1 June 1999 the complainant had a meeting on the matter with Commission officials. Finally, on 27 October 1999 Commissioner Barnier sent a letter to the complainant informing him that the Commission could not fund the ECOS-Ouverture projects which involved Mediterranean partners. 1.4 It appears thus from the above that, since the revised application was submitted in November 1998, the complainant was on three occasions within the period of one year (May, June and October 1999) kept informed by the Commission about the situation of the application. The Ombudsman therefore considers that no instance of maladministration could be found with regard to this aspect of the case. **2 The alleged**

launching of the ECOS-Ouverture Programme without funds being available 2.1 The complainant alleged that DG XVI launched the ECOS-Ouverture Programme without the availability of funds being guaranteed by DG I. The complainant more particularly alleged that DG I was not able to guarantee the financial coverage of applications demanding the intervention of MEDA financing, and that therefore, DG XVI would envisage to renounce to these applications. The Commission mainly observed that, further to the termination of the funding by the MEDA Fund of MED programmes in 1995, the territorial Mediterranean collectivities directed themselves to the ECOS-Ouverture Programme which is rather directed to the co-operation with partners from Eastern and Central European countries. Therefore, and given that the collaboration between the ERDF and MEDA services appeared impossible mainly because of the lack of human resources, the project could not be funded. 2.2 The Ombudsman notes that the project in question (BETHLEEM 2000) falls under the terms of the ECOS-Ouverture Programme 1997-1998 (1) for which a call for proposals was launched in the Official Journal C 125/5 of 22 April 1997. The Programme was aimed at inviting all local authorities in the eligible regions to submit a proposal for an inter-regional co-operation project between regions and towns in the Union and their counterparts in central Europe, the NIS (the New Independent States) and non-member countries of the Mediterranean (MED). 2.3 As regards the funding, the call for tenders stated that the ECOS-Ouverture Programme would receive Euros 17 million from the ERDF and Euros 7 million from PHARE. For the financing of major projects involving co-operation between Union countries and countries in central Europe, NIS and/or Mediterranean non-member countries, the call for tenders stipulated that each project should involve Community financing within a range from Euros 200 000 to 600 000 under the ERDF and Euros 50 000 to 200 000 under PHARE, and, where applicable, MEDA.



2.4 The call for tenders however pointed out that, *if finance from MEDA is not available, the projects should make provision for alternative sources of finance (which could come, for example, from the local authorities themselves, a financial institution or a state body)* (see OJ C 125 of 22 April 1997, p. 7, "Budget and timescale", point 1). 2.5 The Ombudsman therefore notes that the call for tenders drew the attention of potential applicants on the fact that funding from MEDA might not be available, and that other financial sources should be addressed. In the present case, no funding could be granted to the complainant's project which involved Mediterranean partners. It appears from the elements above that the allegation of the complainant that DG XVI would have launched the ECOS-Ouverture Programme without funds being available cannot be sustained. **3 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

(1) ECOS-Ouverture 1997-1998 Inter-regional co-operation with areas outside the European Union, The European Union as a motor of inter-regional co-operation in a period of globalisation (97/ C 125/04).