

Decision of the European Ombudsman on complaint 99/2000/ME against the European Commission

Decision

Case 99/2000/ME - Opened on 14/03/2000 - Decision on 14/05/2001

Strasbourg, 14 May 2001

Dear Mr B.,

On 21 January 2000, you made a complaint to the European Ombudsman on behalf of the Low Level Radiation Campaign concerning an information note circulated by the European Commission.

On 14 March 2000, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 3 May 2000 and I forwarded it to you with an invitation to make observations, if you so wished. No observations appear to have been received from you.

I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The complainant complained to the European Ombudsman in January 2000 on behalf of the Low Level Radiation Campaign. The complaint related to an information note that the European Commission was circulating.

The Low Level Radiation Campaign had a briefing in November 1997 for MPs and MEPs relating to Council Directive 96/29/EURATOM laying down the Basic Safety Standards for the protection of the health of workers and members of the public against the dangers of ionising radiation. The Commission found the briefing to contain some factual mistakes, misinterpretations or quotes out of the context and in order to address these issues it produced an information note on 8 April 1998 headed "Information note by unit XI-C-I 'Radiation Protection' of the European Commission on the Basic Safety Standard Directive". Before the note was produced, the complainant had met the responsible Head of Unit at the Commission's Environment DG to raise specific concerns. After the note was circulated, the complainant sent a letter dated 4 June 1998, to the responsible Head of Unit. In reply to this letter, the complainant received an e-mail which stated that the Commission was working on a lengthy response to his concerns about the information note.



The complainant alleged that (1) the information note was circulated, even though the complainant appeared to disagree with the circulation, and (2) the Commission never replied to his letter of 4 June 1998.

THE INQUIRY

The Commission's opinion

In its opinion, the Commission stated that there had been an extensive correspondence with the Low Level Radiation Campaign after it published in November 1997 a "Briefing for MPs and MEPs" on the Basic Safety Standards (Directive 96/29/EURATOM). As a result of this campaign, the Commission received numerous letters from MEPs. The issue was also raised at a workshop on the Basic Safety Standards organised by the Scientific and Technological Option Assessment (STOA) Unit of the European Parliament in February 1998.

The letters from the MEPs were at first replied to individually. In order to facilitate the replies to MEPs, an information note was prepared answering in detail the main points raised in the campaign and demonstrated that the concerns were based on an erroneous interpretation of the Directive. The radiation protection Unit of the Commission's DG Environment, explained the most striking misconceptions directly to the Low Level Radiation Campaign in a meeting in March 1998. It was agreed at this meeting that no direct reference would be made to it in order to allow each party to speak freely.

After the information note had been sent to the complainant, it suggested in a letter of 4 June 1998, that this confidence had been broken. In a letter of 31 July 1998, the Commission replied that this was not the case as the information note contained no explicit or implicit reference to the meeting. The note was used for a certain time, probably until the complainant updated its briefing material on 20 October 1998, after which it served as background material.

As regards the complainant's letter of 4 June 1998, the Commission stated that it replied by letter of 31 July 1998. It was true that in that reply it was said that the Commission intended to address a number of issues in a more substantiated reply in order to better explain the Commission's view, not to answer specific outstanding questions. The Commission added that questions raised in letters dated 9 and 14 May 1998 were answered. When the campaign updated its briefing material on 20 October 1998, the Commission felt that it was no longer appropriate to continue the substantial effort spent in correspondence with the complainant.

The complainant's observations

The Commission's opinion was forwarded to the complainant for comments. No such comments appear to have been received by the Ombudsman.

THE DECISION

1 The circulation of the information note

1.1 The complainant alleged that the information note was circulated, even though the complainant appeared to disagree with the circulation.



1.2 The Commission explained that following a briefing for MPs and MEPs on the Basic Safety Standards published by the complainant, the Commission received numerous letters from MEPs. In order to facilitate the replies, an information note was produced to demonstrate that the concerns were based on an erroneous interpretation of Directive 96/29/EURATOM. The note was used for a certain time and then served as background material.

1.3 The information note aimed at informing MEPs about the, in the Commission's view, erroneous interpretation of Directive 96/29/EURATOM put forward by the complainant in the briefing. The note helped the Commission to reply to letters received from MEPs. There is in the Ombudsman's view no indication that the Commission breached any rule or principle binding upon it when producing and circulating the information note about its position on the matter.

1.4 The Ombudsman therefore finds that there was no maladministration by the Commission in relation to this part of the complaint.

2 The lack of reply

2.1 The complainant alleged that the Commission never replied to his letter of 4 June 1998.

2.2 The Commission stated that it replied to the complainant's letter of 4 June 1998 by letter of 31 July 1998. The Commission confirmed that in its reply it was said that it intended to address a number of issues in a more substantiated reply. Questions raised in letters dated 9 and 14 May 1998 were answered. When the campaign updated its briefing material on 20 October 1998, the Commission considered that it was no longer appropriate to continue the substantial effort spent in correspondence with the complainant.

2.3 The Ombudsman notes that the Commission replied to the complainant on 31 July 1998. The Commission's reply refers to letters sent by the complainant on 9 May and 2 June 1998. In view of the fact that the complainant did not comment on the opinion of the Commission and since the Commission claims that its letter of 31 July 1998 is in fact a reply to the complainant's letter of 4 June 1998, it appears to be correct even if it refers to a letter of 2 June 1998. The Commission's letter replies to six points put forward in the complainant's letter of 9 May 1998. The letter also states that a more substantive reply will be prepared to the complainant's letter of 2 June 1998. The Ombudsman presumes this refers to the letter of 4 June 1998. However, no further reply was sent because the Commission felt that it was not appropriate after the complainant had updated its briefing material.

2.4 The Ombudsman finds that the Commission did reply to the complainant's letter of 4 June 1998 and that it, in its opinion to the Ombudsman, explained why the promised substantiated letter was never sent to the complainant. The Commission's explanation does not appear to be unreasonable. The Ombudsman therefore finds that there was no maladministration by the Commission in relation to this part of the complaint.

3 Conclusion

On the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Commission. The Ombudsman therefore closes the case.



The President of the European Commission will also be informed of this decision.

Yours sincerely,

Jacob Söderman