

Decision of the European Ombudsman on complaint 500/2000/IP against the European Commission

Decision

Case 500/2000/IP - Opened on 23/05/2000 - Decision on 19/10/2000

Strasbourg, 19 October 2000 Dear X, On 31 March 2000 you lodged a complaint with the European Ombudsman against the European Commission. The complaint concerned the Commission's decision to set the end of March 2000 as a new deadline for the presentation of applications in the framework of the BC-NET programme and the institution's handling of your request. On 23 May 2000, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion translated into Italian on 18 July 2000 and I forwarded it to you on 24 July 2000 with an invitation to make observations, if you so wished. On 28 August 2000, I received your 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

The Business Cooperation Network (hereinafter BC-NET) has been created by the Council resolution of 3 November 1986 (1) , with the aim of helping small and medium-size enterprises to become stronger through transnational cooperation agreements. The network members are private consultants, chambers of commerce and industry, professional organizations, consulting groups, banks or members of other networks. On 13 January 2000, the complainant sent a fax to the BC-NET secretariat asking for an application form in order to apply following the call published in the Official Journal of 3 July 1999 (2) . The deadline foreseen in the Official Journal which should have been applied was 31 December 2001. However, in its reply dated 25 February 2000, the Commission informed the complainant that the call for the concerned BC-NET had been closed. Since the Commission did not indicate in its reply on which legal provision the decision to advance the deadline had been taken, the complainant wrote to the institution on 21 March 2000. On 22 March 2000, he received a reply with the same content as that of 25 February 2000. The complainant therefore lodged a complaint with the Ombudsman, in which he alleged that: (i) the Commission's decision to set a shorter deadline than that originally foreseen in the Official Journal of 3 July 1999, should have been notified to the potential applicants through a publication in the Official Journal; (ii) the Commission's failed to deal properly with his request of 13 January 2000.

THE INQUIRY

The Commission's opinion In its opinion on the complaint, the Commission pointed out that the complainant's fax of 13 January 2000, in which he requested the BC-NET application form,



was registered on 24 January 2000. On 25 February, the services of the Enterprise Directorate General replied to the complainant. The Commission explained that it was currently in a process of re-thinking the structure and operation of BRE (Bureau de rapprochement des entreprises) and BC-NET. The objective was to analyse how to obtain a closer relationship between the BRE, the BC-NET and the Euro Info Centers, as well as other Community networks that work in favor of small and medium-size enterprises. Since in the course of the year 2000 the structure and the organisation of the BRE and BC-NET networks would have been considerably modified, the Commission explained that it will therefore not examine any new application to join the network and that the programme was closed. As concerns the complainant's grievance that the decision to set a shorter deadline to apply for the BC-NET programme should have been notified, the Commission stressed that such a decision has been published in the Official Journal of 18 February 2000 (3) . The institution also pointed out that if the complainant had asked, he would have been informed accordingly. As concerns the reasons to close the programme, the Commission explained that the reply given to the complainant was the same standard letter sent to all candidates which expressed their interest ("*...qui se sont manifestés après...*") after the closing of the programme. **The complainant's observations** The Ombudsman forwarded the Commission's opinion to the complainant with an invitation to make observations. The complainant stressed that the Commission never referred to the Official Journal of 18 February 2000 in all correspondence with him, but only in its reply to the Ombudsman. As far as the Commission's explanation that the reply given to the complainant on 25 February 2000 was the same standard letter sent to all candidates which expressed their interest ("*...qui se sont manifestés après...*") after the closing of the programme, the complainant put forward that he expressed his interest more than a month before the new deadline had been set. The Commission's claim could therefore not apply to his case. In the contrary, due to the Commission's negligence, he lost the opportunity to send his application in time and, possibly, to be selected.

THE DECISION

1 The Commission decision to set a new deadline 1.1 The complainant complained that when the Commission decided to set a shorter deadline than that originally foreseen in the Official Journal of 3 July 1999, it should have been notified through publication in the Official Journal. 1.2 The Commission explained that the concerned decision was published in the Official Journal of 18 February 2000. The Commission recognised that in its reply of 25 February 2000 to the complainant it did not indicate that the decision had been published. However, the institution pointed out that in his further correspondence, the complainant did not explicitly ask for this kind of information. 1.3 Since it appears that the Commission published its decision in the Official Journal of 18 February 2000, making such a decision available to all the potential applicants, the Ombudsman considers that there appears to have been no maladministration by the European Commission in this aspect of the case. **2 The Commission's handling of the complainant's request** 2.1 On 13 January 2000, the complainant asked the Commission to send him the application form to apply to the BC-NET programme published in the Official Journal of 3 July 1999, with the deadline 31 December 2001. 2.2 In its opinion, the Commission explained that the reply forwarded to the complainant on 25 February 2000, was the same standard letter sent to all those applicants which expressed their interest after the closing of the programme. 2.3 The complainant argued in his



observations that when he requested the application form from the Commission's services, the deadline had not expired. In fact, the decision to close the programme was taken more than one month later. 2.4 Principles of good administrative behaviour require that public administrations properly reply to the queries of citizens in due time. The Commission replied to the complainant's request made on 13 January only when the programme for which the complainant had applied was already closed, on 25 February 2000. The Ombudsman considers that when the complainant made his request, the programme was still open and he should therefore have had the opportunity to present his application. As a matter of good administration, the Commission should therefore have dealt with the request so that the complainant could have his application. The Ombudsman considers that the Commission's action in this aspect of the case constitutes an instance of maladministration. **3 Conclusion** On the basis of the Ombudsman's inquiries into this complaint, it appears necessary to make the following critical remark: As a matter of good administration, the Commission should therefore have dealt with the request so that the complainant could have presented his application. Given that this aspect of the case concerns procedures relating to specific events in the past, it is not appropriate to pursue a friendly settlement of the matter. 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) O.J. C 287 of 14.11.1986

(2) O.J. S 127 of 03.07.1999

(3) O.J. S 34 of 18.02.2000