

Decision of the European Ombudsman on complaint 573/2000/GG against the European Commission

Decision

Case 573/2000/GG - Opened on 19/05/2000 - Decision on 12/12/2000

Strasbourg, 12 December 2000 Dear Mr U., On 27 April 2000, you lodged, on behalf of a German Industrie- und Handelskammer, a complaint with the European Ombudsman against the European Commission which concerned the way in which the Commission handled an application for an ECIP grant. On 19 May 2000, I forwarded the complaint to the Commission for its comments. In a letter of 13 June 2000, you provided further information in relation to the complaint. The Commission sent its opinion on your complaint on 12 October 2000. I forwarded the Commission's opinion to you on 20 October 2000 with an invitation to make observations, if you so wished. On 27 November 2000, you sent me 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 Industrie- und Handelskammer (Chamber of Industry and Commerce) submitted an application for an ECIP ("EC Investment Partners") grant of € 48 420 for a presentation in China in November 1998. This application was submitted to the Commission via the authorised partner, the Investitionsbank Schleswig-Holstein, on 8 July 1998. On 8 October 1998, the Commission informed the Investitionsbank that the ECIP Steering Committee had considered the application and that the Commission's services were in favour of it. The final paragraph of the Commission's letter read as follows: "This information is without prejudice to the formal approval of the proposal by the Commission and as such this letter does not constitute any commitment on the Commission's part. The Commission's formal decision will be communicated to you in due course, together with a contractual document for your signature, where appropriate." The Commission never signed the contract in which it would have promised to provide the grant. The complainant makes the following allegations: (1) The Commission failed to sign the relevant contract (2) The Commission failed to release the grant.

THE INQUIRY **The Commission's opinion** In its opinion, the Commission made the following comments: The last paragraph of its letter of 8 October 1998 stated that this letter did not constitute any commitment on the Commission's part. Generally during the whole of 1999, the Commission did not sign any contracts for ECIP financings requested after 31 December 1998. Council Regulation (EC) 213/96 of 29 January 1996, which had provided the legal basis for the management by the Commission of the ECIP financial instrument, expired on 31 December 1999. The Commission decided not to propose to the Council and the European Parliament to extend the validity of this



regulation. It was necessary to take this decision as part of the overall rationalisation of the Commission's policies and the reform and simplification of the Commission's services' financial management tasks. No ECIP measures could thus be assessed, approved or contracted after 31 December 1999. This applied inter alia to the request made by the complainant. The Commission had however proposed a measure that would allow to follow-up ECIP actions that already before 31 December 1999 were the subject of signed specific financing contracts. All the interested parties had been informed accordingly in writing on 14 April 2000. **The complainant's observations** In its observations, the complainant pointed out that from a legal point of view the position of the Commission was certainly acceptable. The complainant stressed, however, that the way in which the Commission had proceeded gave rise to a general unease. After numerous delays resulting from the internal procedures of the Commission, the applicants had been informed that the relevant programme had been terminated and that therefore applications could no longer be handled. The complainant argued that this did not give the applicants the feeling that the Commission took proper account of their legitimate interests and of the work they had invested.

THE DECISION

1 Failure to sign contract

1.1 The complainant, a German Industrie- und Handelskammer (Chamber of Industry and Commerce), submitted an application for an ECIP ("EC Investment Partners") grant of € 48 420 for a presentation in China in November 1998 to the Commission. The Commission informed the complainant on 8 October 1998 that the ECIP Steering Committee had considered the application and that the Commission's services were in favour of it. However, the contract was not signed by the Commission. The complainant argues that the Commission should have signed this contract.

1.2 The Commission points out that the last paragraph of its letter of 8 October 1998 stated that this letter did not constitute any commitment on the Commission's part.

1.3 The Commission also provided the following explanations: Generally during the whole of 1999, the Commission did not sign any contracts for ECIP financings requested after 31 December 1998. Council Regulation (EC) 213/96 of 29 January 1996, which had provided the legal basis for the management by the Commission of the ECIP financial instrument, expired on 31 December 1999. The Commission decided not to propose to the Council and the European Parliament to extend the validity of this regulation. It was necessary to take this decision as part of the overall rationalisation of the Commission's policies and the reform and simplification of the Commission's services' financial management tasks.

1.4 The Ombudsman considers that it follows from the last paragraph of the letter of 8 October 1998 that there was no legal obligation for the Commission to sign the relevant contract. He considers it appropriate, however, to make a further remark in this context.

1.5 On the basis of the above, there appears to have been no maladministration on the part of the Commission in so far as the first allegation is concerned.

2 Failure to release the grant

2.1 The complainant argues that the Commission should have released the grant.

2.2 The Commission implicitly denies that it was under an obligation to provide the grant to the complainant.

2.3 The Ombudsman considers that in view of the fact that the Commission was not obliged to sign the contract it could not be under an obligation to release the grant either.

2.4 On the basis of the above, there appears to have been no maladministration on the part of the Commission in so far as the second allegation is concerned.

3 Conclusion On the basis of the European Ombudsman's inquiries into this complaint, there appears to have been no maladministration on the part of the



Commission. The President of the European Commission will also be informed of this decision. FURTHER REMARKS The Ombudsman notes that the application for a grant in the present case was made in July 1998. However, only in April 2000 was the complainant informed that its application could no longer be considered, given that the relevant regulation had expired at the end of 1999. The Ombudsman considers that it would be useful if in future cases the Commission could, as a matter of good administration, keep applicants informed of the reasons for any delays that may occur and notify them as soon as possible if it comes to the conclusion that their applications can no longer be considered. Yours sincerely, Jacob SÖDERMAN