

## **Decision of the European Ombudsman on complaint 584/2000/(IJH)JMA against the European Commission**

Decision

**Case 584/2000/JMA - Opened on 18/07/2000 - Decision on 22/06/2001**

**THIS COMPLAINT WAS TREATED AS CONFIDENTIAL. THE DECISION HAS THEREFORE  
BEEN ANONYMISED. THE MASCULINE FORM HAS BEEN USED THROUGHOUT.**

Strasbourg, 22 June 2001

Dear X,

On 2 May 2000, you made a complaint to the European Ombudsman against the Commission on behalf of the Belgian company Y. The complaint concerns refunds of customs duties on imports of rice into the European Union, under the Cumulative Recovery System (CRS) set up under Commission Regulation (EC) N° 703/97 of 18 April 1997. You alleged that the Commission, (i) had abused its power by acting arbitrarily and unfairly in relation to Y, and (ii) that it had not properly respected the company's rights of defense.

You sent further information to me on 7 June, 7, 9 and 10 August 2000. I forwarded your complaint to the President of the Commission on 18 July 2000, with a request for comments by 31 October 2000. On 15 November 2000, the Commission sent its comments which I forwarded to you on 23 November 2000. On 27 December 2000, you sent me your observations on the Commission's opinion.

In your observations, you noted that some recent events might have rendered the intervention of the European Ombudsman unnecessary. You referred to the fact that in December 2000, the company you represent had lodged an appeal with the Court of First Instance. In your appeal, you contest the Community decision whereby the Belgian authorities had been called to suspend payment of CRS refunds to your client.

The notice of Y's action against the European Commission (case T-370/00) was published in the Official Journal on 10 March 2001(OJ C/79, 10.03.2001, p. 22). On the basis of the information included in the notice, it appears that the object of the case is the annulment of the Commission's decision contesting the position taken by the Belgian authorities to pay CRS refunds to Y. Among the grounds for the annulment of the contested decision, you alleged that the company's right of defence had not been respected, and that the report which laid the ground for the Commission's decision had been established in violation of essential procedural requirements.



In accordance with Article 195 of the Treaty establishing the European Community, the European Ombudsman may not conduct inquiries where the alleged facts are or have been the subject of legal proceedings. Article 2 (7) of the Statute of the Ombudsman provides that, when the Ombudsman has to terminate his consideration of a complaint because of legal proceedings, the outcome of any inquiries he has carried out up to that point shall be filed without further action.

Taking into account that the subject-matter and the legal arguments of both the complaint lodged with the European Ombudsman and the case before the Court of First Instance seem closely related, the Ombudsman could not possibly continue his inquiries without taking a stand on matters which are currently before the Court of First Instance.

On the basis of the above legal provisions, the Ombudsman has decided therefore to conclude his enquiries into this matter, and to close the case.

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

Yours sincerely,

Jacob SÖDERMAN