

Decision of the European Ombudsman on complaint 1230/2000/GG against the European Commission

Decision

Case 1230/2000/GG - Opened on 12/10/2000 - Decision on 11/02/2002

Strasbourg, 11 February 2002

Dear Mr C.,

On 25 September 2000, you lodged a complaint with the European Ombudsman concerning the European Commission's failure to pay you for work carried out by you for the Commission's Directorate-General V in September/October 1998.

On 12 October 2000, I forwarded the complaint to the Commission for its comments. The Commission sent its opinion on your complaint on 7 March 2001. I forwarded the Commission's opinion to you on 9 March 2001 with an invitation to make observations, if you so wished.

On 31 May 2001, you sent me your observations on the Commission's opinion.

On 28 June 2001, I wrote to the Commission in order to ask to be shown the Commission's file and to hear the testimony of two Commission officials, Mrs D. and Mr T.. You were informed accordingly in a letter sent to you the same day.

On 10 September 2001, my services inspected the Commission's file. A copy of the report on this inspection was sent to you and the Commission on 17 September 2001.

On 11 September 2001, my services heard the testimony of the above-mentioned witnesses. The transcript of the testimony was sent to the witnesses on 5 October 2001. On 26 October 2001, the witnesses returned signed copies of their testimonies.

On 15 November 2001, I wrote to the Commission in order to propose a friendly solution. The Commission sent its opinion on 14 January 2002, and I forwarded it to you on 23 January 2002 with an invitation to make observations, if you so wished. On 30 January 2002, you sent me your observations on the Commission's opinion.

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



THE COMPLAINT

According to the complainant, a British journalist who used to live and work in Brussels, the facts underlying his complaint were as follows:

In March 1998, the complainant was telephoned by Mrs D., head of Unit D.3 in the Commission's Directorate-General ("DG") V (now Directorate-General Employment and Social Affairs) and asked whether he could urgently edit the draft interim report from the so-called High Level Group on the Economic and Social Implications of Industrial Change, otherwise known as the "Gyllenhammar group". Mrs D. knew of the complainant through Mrs Kurtzahn, the complainant's wife, who was working as an auxiliary agent in unit D.3 at that time. She made clear that she needed help urgently to improve the draft report and offered the complainant a fee of " 3 000 for the work. The complainant accepted this offer.

The editing work was carried out over a period of about two weeks through an iterative process involving regular contacts and e-mails between the complainant and Mrs D.. It was completed in early April 1998. Because of the urgency of the situation, DG V did not manage to draw up a contract until after the work was completed, in June 1998. The verbally agreed fee of " 3 000 was mentioned in the contract dated 26 June 1998 (reference no. 980114) and paid to the complainant.

In late September 1998, Mrs D. telephoned the complainant again and asked him whether he could edit the final report from the Gyllenhammar Group. Mrs D. explained that the situation was again urgent since the report was to be submitted to the European Council to be held in Vienna in December 1998 and needed to be translated into all the Community languages and printed well in advance of that meeting. It was agreed between Mrs D. and the complainant that "the same terms and conditions would apply" as to the interim report, i.e. that the complainant would complete the work quickly and would be paid " 3 000 for doing so. No further discussion of the fee took place.

The complainant agreed to do the work and, after following the same iterative process as for the interim report, completed it in mid-October 1998. The final report of the Gyllenhammar Group was duly published and submitted to the European Council.

On the basis of his experience with the interim report, the complainant assumed that a contract would be drawn up and payment made within a short space of time. However, months passed without the arrival of a contract or any communication from the Commission. Eventually, on 25 September 1999 the complainant sent an invoice for payment of " 3 000 to Mrs Q., Director of Directorate D and acting Deputy Director-General of DG V.

In early November 1999 (13 months after the work had been completed), the Commission sent the complainant a draft contract (reference no. VC/1999/0020) and a notification letter from Mr C., head of sector "Contracts & Subsidies" at DG V. According to this draft contract, the complainant was to produce, within a period of two months from the date on which it took effect (the date of notification by the Commission to the complainant of the signed contract), a "Report



on the economics and social implications of industrial changes". The draft specified a fee of ₣ 2 000.

Soon after receiving the draft contract, the complainant contacted Mrs D. to point out that the fee was ₣ 1 000 lower than agreed and to seek an explanation. Mrs D. said she would look into the matter and get back to the complainant. However, she never called back.

On 21 December 1999, Mr C. sent the complainant a reminder, asking him to sign and return the draft contract within ten calendar days. The complainant wrote back on 30 December 1999, explaining what had happened and expressing his surprise at the deadline that had been set. He then re-contacted Mrs D. who did not deny that a fee of ₣ 3 000 had been agreed. Mrs D. said, however, that DG V's financial department had in the meantime cut the fee to ₣ 2 000 for budgetary reasons and advised him to settle for this sum if he wanted to be paid at all. The complainant thereupon reluctantly signed the draft contract on 19 January 2000 and returned it to the Commission. In his cover letter dated 20 January 2000, he made the following comments: "I wish to state again, however, that in this affair DG V has unilaterally deviated from the terms I agreed with Mrs D., and which she does not deny, namely a payment of ₣ 3 000. Such cheating does the Commission's reputation no good." The complainant further pointed out that it was unacceptable that the Commission had allowed a full year to pass after the work had been completed before sending him a contract, and that he expected that payment would be made without further delay. On 9 February 2000, the Commission notified the signed contract to the complainant.

Having already submitted an invoice, the complainant did not immediately submit another one. On 4 April 2000, he sent an e-mail to Mr C. in which he drew attention to his earlier invoice and asked when he would be paid. Later the same day, Mr C. sent the complainant an e-mail in which he asked the latter to submit a final invoice, together with a final report, in accordance with the contractual provisions. The complainant replied that he had already sent an invoice in September 1999 and that he had completed the report he had been asked to work on in October 1998.

On 5 April 2000, the complainant received an e-mail from Mrs V.-R., a colleague of Mr C., who informed him that the final report could not be dated 1998 since the contract had been signed on 31 December 1999 and the period for performance had ended on 29 February 2000. In his reply, the complainant pointed out that these dates were wrong and once again explained the background of his claim. He also pointed out that he had not been asked to present a "report", but that his work had consisted in making numerous textual changes to a manuscript prepared by someone else for the Commission. The complainant nevertheless promised to send a new invoice, which he did on 1 May 2000.

In the absence of any payment, the complainant turned to the Ombudsman in September 2000. The complainant pointed out that he was now no longer ready to content himself with the reduced payment of ₣ 2000 but claimed (1) full payment of the agreed fee of ₣ 3 000, (2) interest on that amount as from 25 September 1999 and (3) a formal apology from Mrs D. and Mrs Q..



The complainant made the following allegations:

- (1) The Commission had failed to pay him the agreed fee of \approx 3000
- (2) The Commission had unilaterally reduced the fee that had been agreed
- (3) The Commission had only sent him a draft contract 13 months after he had completed his work

THE INQUIRY

The opinion of the Commission

In its opinion, the Commission made the following comments:

The Commission had facilitated a high level group of experts convened to consider industrial change and the social consequences thereof. The group was chaired by Mr P. Gyllenhammar and the report later became known as the "Gyllenhammar report". The group prepared an interim report, which was to be sent to the European Council in June 1998 in Cardiff. The chairman of the group was concerned that the text should read fluently and to that end a journalist was retained to write the text. The complainant was contracted to perform this work, which entailed attendance at meetings of the expert group as well as writing the English text of the interim report. He was paid \approx 3 000 for this work on 6 October 1998. The complainant was not retained to write the final report. He did make some minor changes to the English text although he did not have a contract for this, which seems to have given rise to the misunderstanding.

In 1999 a further document with the title "Report on the economic and social implications of industrial change" was to be prepared. This report had as an objective to overview the issue of industrial change based on the final Gyllenhammar report. The complainant was selected as expert to prepare this report due to his previous experience in this field (including involvement in the writing of the interim Gyllenhammar report) and his experience as a journalist. Contract VC/1999/0020 that was thereupon drawn up provided that the period of performance was two months from 9 February 2000. The relevant fee was established on the basis that, as an expert in the area, and drawing very largely on published work including the final Gyllenhammar report, it would have been possible to prepare the report within a few weeks. This had also been reflected in the period of performance that was set at two months. Equally, a figure of \approx 2 000 had been established since there had been no necessity to attend meetings unlike the case for the interim Gyllenhammar report.

To date, no report had been received from the complainant and, as a consequence, it had not been possible to pay him the sum of \approx 2 000. The invoices that had been received from the complainant referred to work done during 1998 rather than the report requested in the contract.

There had been a considerable amount of confusion in the dealings with the complainant. It had



been repeatedly explained to the complainant, both in telephone conversations and by e-mail, that contract VC/1999/0020 had been drawn up for a separate piece of work (encompassing the Gyllenhammar report but not the same as the final report).

Whilst there was no contract with the complainant, nonetheless the Commission did benefit from the amended English text (tracked changes). Therefore, in order to demonstrate «good faith» in its relations with contractants and to pay for «the value» of the work from which it benefited, the Commission was prepared to make an ex-gratia payment of « 1 000.

The complainant's observations

In his observations, the complainant maintained his complaint and made the following submissions:

In its opinion, the Commission resorted to a series of untruths and claims of «confusion» and «misunderstanding». These fabrications transformed the nature of the case from one of maladministration into one that also warranted disciplinary proceedings against the officials responsible for inventing them, presumably including Mrs D. herself.

Mrs D. had telephoned the complainant in late September 1998 with an urgent request that he edit the final report. She and the complainant had agreed that this was to be done on the same terms as the interim report, i.e. for a fee of « 3 000. In subsequent telephone conversations, Mrs D. had never denied that this agreement existed but had claimed that the Commission had subsequently been obliged to reduce the amount unilaterally to « 2 000 for budgetary reasons. The editing work amounted to a substantial contribution to the final text. Work had been carried out over the weekend from 2 to 4 October 1998 and on 16 October 1998. The complainant submitted evidence to show what work he had performed. All the changes made by the complainant had been taken on board when DG V published the final report in November 1998.

New information had become available to the complainant in the meantime. In February or March 1999, his wife had mentioned to Mr T., an official working on budgetary matters in unit D.3, that the complainant had not yet received any contract for the work performed in October 1998. Consequently Mr T. went to see Mrs D. to ask what should be done. Mrs D. asked him to make a commitment in the budget for « 2 000 in preparation for drawing up a contract. This information contradicted the Commission's contention that the contract had been drawn up for prospective work and not to cover the work that the complainant had completed in October 1998. It also showed that the instruction to reduce the complainant's fee came from Mrs D. in person.

The complainant had never *asked* to do work on the final Gyllenhammar report. Indeed, the extra work had been somewhat inconvenient since it had come at a busy time in the complainant's full-time job as Brussels writer/editor of a specialised newsletter on environment policy, *Environment Watch Western Europe*.

A Frenchman, Mr B., had been contracted to write the reports of the Gyllenhammar group, both interim and final. When Mrs D. first approached the complainant to help edit the interim report, she told him that she was not happy with Mr B.'s approach, that she would have to revise the



report and that it would be the complainant's job to ensure that the end result of this rewriting process read well in English. This had been purely an editing job. It had not been necessary for the complainant to attend the meetings of the group since Mr B. was the rapporteur. At Mrs D.'s suggestion that it would be useful to get a 'flavour' of the discussions, the complainant did however sit in on one meeting for up to one and a half hours. There was a clear distinction between *preparing* and *editing*. The complainant had never claimed to have *prepared* (i.e. written) either of the reports : this was done by Mr B. and then Mrs D. and her team. The complainant's job involved *editing* them intelligently so that they made sense to the non-specialist reader and read well in English.

It was true that there had been no written contract at the time when the complainant had worked on the final report. However, this had been due to the urgency of the situation, as had been the case with the interim report. Mrs D. and the complainant had agreed verbally on the work and the fee during the telephone conversation in late September when she had asked for the complainant's urgent help. The work was, therefore, covered by that « gentlemen's agreement ». The complainant further pointed out that it would have been highly unusual for him to work on the final report for free.

There had been no misunderstanding between the complainant and Mrs D.. Their agreement on the final report had been absolutely clear, as it had been on the interim report.

The Commission's claim that contract VC/1999/0020 was for a prospective report was very strange since the complainant had not been contacted by Mrs D. or anyone else about doing such a project. Moreover, the complainant had never claimed to have expertise in social affairs : he had 18 years professional experience as a general journalist and editor, but any specific policy expertise he had related to the environment. It was crystal clear that the prospective project to which the Commission referred in its opinion was a fiction fabricated *in extremis* to give an apparent purpose to contract VC/1999/0020 since the Commission could no longer admit to the contract's original purpose, which had been to pay for the complainant's work on the final Gyllenhammar report.

The Commission's claim that it had « repeatedly explained » to the complainant by telephone and e-mail that contract VC/1999/0020 had been drawn up for the 'overview' report and not to cover his work on the final Gyllenhammar report, was quite untrue. The complainant had learnt of this version of events for the first time on reading the Commission's opinion in this case.

The offer of an ex-gratia payment of ' 1 000 was no substitute for the payment of the full sum of ' 3 000. Furthermore, it had to be assumed that the Commission's offer only covered the work done by the complainant on 16 October 1998. If ' 1 000 were appropriate for this work, then a further ' 2 000 would be appropriate compensation for the work carried out over the weekend from 2 to 4 October 1998 plus the time spent on telephone calls and e-mails.

To sum up, the complainant asked the Ombudsman to treat the Commission's incredible version of events with the utmost caution. He maintained his demand for payment of the full sum agreed with Mrs D., namely ' 3 000, plus interest as from 25 September 1999, the date on



which he had sent his first invoice.

Further inquiries

In the light of the Commission's opinion and the complainant's observations thereon, the Ombudsman considered that he needed further information to deal with the present complaint. He therefore inspected the Commission's file and heard the testimony of Mrs D. and of Mr T..

Inspection of the file

The Commission's file contained inter alia the following documents:

The *Notes from the Meeting* on 22 and 23 June 1998 point out that the deadline for the final report was 16 October 1998 and add : « An editor would be sought (to start already in August) ».

In a *note dated 3 April 1998* , Mrs D. asked for a commitment over « 3 000 to be made for a contract to be concluded with the complainant. According to the accompanying note justifying the choice of contractor and describing the tasks to be carried out, the relevant job consisted in the « rédaction » of the interim report for 23 April 1998. An *internal note dated 4 May 1998* from DG XX (Financial Control) to DG V refers to this date and asks for its signification. A manuscript addition on this note reads « changer la date ! ». On 22 July 1998, DG V received the *complainant's invoice* for « editing work on report of high-level group on industrial change ». In a *note dated 24 July 1998* , Mrs D. confirmed, using the same expression, that this job had been carried out satisfactorily.

In a *note dated 14 April 1999*, Mrs Q. asked for a commitment over « 2 000 to be made for a service contract to be concluded with the complainant. According to the accompanying note, the complainant had been chosen in view of the urgency of the work, of the complainant's qualifications and of the latter's readiness to carry out the work. In a *note dated 4 June 1999* , DG V's service in charge of administering resources asked Mrs Q. to explain why the relevant service could only be provided by the complainant. In *her reply dated 14 June 1999*, Mrs Q. noted that the complainant had already carried out work in relation to the Gyllenhammar group « on the economics and social implications of social change » and continued as follows : « Il a donc une très bonne connaissance du dossier dont le rapport final doit être rédigé et en plus il est disponible de le remettre dans les plus brefs délais. » Mrs Q. further noted that the price was considered to be very good, taking into account that the « rédaction du rapport intérimaire a été effectuée pour un montant de 3.000,00 euros. »

Testimony of Commission officials

Two Commission officials, Mrs D. and Mr T., were heard as witnesses by the Ombudsman's services.

THE OMBUDSMAN'S EFFORTS TO ACHIEVE A FRIENDLY SOLUTION

The Ombudsman's analysis of the issues in dispute

After careful consideration of the opinion and observations and the results of the further inquiries, the Ombudsman was not satisfied that the Commission had responded adequately to the complainant's claims.



This provisional conclusion was based on the following considerations:

1. In April 1998, the complainant, a British journalist, carried out work for the Commission (contract 980114) on the interim report of a high level group of experts convened to consider industrial change and the social consequences thereof (the "Gyllenhammar group") and was paid a fee of \approx 3 000 for this work. The complainant claimed that in September 1998 he had been asked to carry out work on the final report of that group and that it had been orally agreed that this should be done on the same terms as before, i.e. that a fee of \approx 3 000 should be paid for this work. According to the complainant, the Commission had failed to pay this fee, had unilaterally reduced the said fee to \approx 2 000 and had only sent him a contract 13 months after he had completed his work. The complainant claimed (1) full payment of the agreed fee of \approx 3 000, (2) interest on that amount as from 25 September 1999 and (3) a formal apology from two Commission officials, Mrs D. and Mrs Q..

2. The Commission claimed that there was no contract for work on the final report of the Gyllenhammar group but that the complainant had been commissioned, in a contract signed in early 2000 (contract VC/1999/0020) and for a fee of \approx 2 000, to draw up a "Report on the economic and social implications of social change". According to the Commission, this sum could however not be paid out since the complainant had failed to produce the said report. In view of the fact that it had benefited from the work the complainant had done on the final report of the Gyllenhammar group, the Commission was nevertheless ready to make an ex-gratia payment of \approx 1 000.

3. In his observations, the complainant strongly criticised the Commission's views and claimed that there had at least been a "gentlemen's agreement" according to which he was to work on the final report of the Gyllenhammar group.

4. The Ombudsman considered that it was appropriate to consider the complainant's allegations together, given that they were based on the same assumption, namely that in September 1998 the complainant had been asked by the Commission to edit the final report and that it had been agreed on that occasion that a fee of \approx 3 000 should be paid for this work.

5. The Ombudsman noted that the Commission did not dispute the fact that editing work on the final report of the Gyllenhammar report had been carried out by the complainant. The complainant had moreover submitted evidence to establish this fact. It had further been established that this work had been carried out with the knowledge and the approval of the Commission. In her testimony, Mrs D., the head of the Commission's unit dealing with the report, confirmed that the draft of the final report had been passed on to the complainant who had then worked on it and returned it to the Commission. The Ombudsman noted that this work did not appear to have been insignificant, given that the complainant seemed to have spent at least 12 hours on it. Such services were not normally provided for free, and there was nothing to suggest that the complainant had intended to work for nothing. The complainant claimed that it had been agreed orally between himself and Mrs D. that he would work on the same terms as he had done before in relation to the interim report. In her testimony, Mrs D. admitted that it was



"entirely possible" that the words "on the same terms" may, as the complainant claimed, have been used during the discussions (1) . She further confirmed that she had understood this as referring to the terms of the contract relating to the interim report (contract 980114). In these circumstances, the complainant's claim that he had offered to carry out the work on the same terms as the previous job, i.e. for a fee of \approx 3 000, and that Mrs D. had accepted this offer appeared plausible. Mrs D.'s suggestion that the complainant had intended to convey by these words that he was ready to carry out the work for the fee that had been paid under contract 980114 (and thus effectively for nothing) was not convincing. On the contrary, all the other evidence available appeared to confirm the complainant's version of events.

6. First, the sequence of events alleged by the complainant matched the one that had followed, as the Commission accepted, with regard to the work carried out on the interim report. In view of the urgency, no written contract had been drawn up before the work on the interim report was carried out. A contract had however been prepared and signed subsequently. Second, given that the Commission had considered it necessary to obtain the services of a journalist to edit the interim report it would have been surprising if less care had been taken with regard to the final report that, after all, was to be presented to the European Council. In her testimony, Mrs D. confirmed that it proved to be necessary to perform editing work on the text of the final report that had been prepared by the rapporteur of the group. Third, the notes of the meeting of the Gyllenhammar group of 22 and 23 June 1998 themselves pointed out that an editor would be sought for the final report (2) . Fourth, all the elements available suggested that the matter had been urgent, given that the rapporteur had submitted his draft final report at a time (end of September 1998) when the deadline set for this report (16 October 1998) was fast approaching. In her testimony, Mrs D. confirmed furthermore that this report had been one of the « major production items » of her unit at the time. It was therefore most unlikely that the official in charge should have left the work that needed to be done to the goodwill of a third party who was not an official of the Communities, without making any specific arrangements as to how and on what terms it was to be carried out. The Ombudsman's provisional conclusion was therefore that the complainant's view that there had been an understanding between Mrs D. and the complainant according to which the latter would carry out editing work on the final report for a fee of \approx 3 000 was supported by the evidence available. If there should have been a misunderstanding as the Commission claimed there was, it appeared that it had been entirely on the part of the Commission and had not been caused by the complainant.

7. The Commission argued, however, that a contract (VC/1999/0020) had indeed been concluded with the complainant, but not for work on the final report of the Gyllenhammar group but for the production of a separate report. The complainant took the view that the prospective project to which the Commission referred in this context was a fiction fabricated *in extremis* to give an apparent purpose to contract VC/1999/0020 since the Commission could no longer admit to the contract's original purpose, which in his view had been to pay for his work on the final Gyllenhammar report.

8. The Ombudsman considered that there were several factors that militated against the Commission's version of events. *First* of all, there did not appear to be a satisfactory explanation as to the exact nature of the report allegedly to be prepared by the complainant



under contract VC/1999/0020. In its opinion, the Commission claimed that this report had had as its objective to overview the issue of industrial change on the basis of the final Gyllenhammar report. This gave the impression that a substantial report had to be prepared. In the same text, however, the Commission described this new report as « encompassing » the Gyllenhammar report but not being the same as the final report. In her testimony, Mrs D. spoke of a document that should bring the two reports (the interim and the final report of the Gyllenhammar group) «together». She also said that it was intended in this report to explain clearly what the recommendations of the Gyllenhammar group were. However, these recommendations had already been set out in the final report from that group. It was thus not at all clear what kind of new report the complainant would actually have been expected to produce. *Second* , and to some extent linked to the first point, it was difficult to see why the complainant had been chosen for this task. The complainant pointed out that he was a journalist with no particular expertise in the field of social affairs. In the documents on the Commission's file, the choice of the complainant was however justified by, inter alia, the qualifications of the complainant. In its opinion, the Commission likewise claimed that the complainant was an expert "in the area". In her testimony, however, Mrs D. claimed that the new report would not have required an inordinate degree of expertise in the area and could arguably have been written by someone else. It was difficult to reconcile these statements, and this difficulty reinforced the lack of clarity as to the exact nature of the work that the complainant was expected to carry out. *Third* , if such a new report had indeed been needed and if the matter was urgent (as the documents on the Commission's file suggested) it was inexplicable why the Commission did not try and force the complainant to produce the report he had allegedly agreed to provide or terminate the contract and try and obtain the report from someone else. *Fourth* , the Commission officials who were interviewed by the Ombudsman's services confirmed that in February or March 1999, the complainant's wife had asked questions in relation to the contract her husband expected to receive for his work on the final report. Shortly afterwards, on 14 April 1999, the services of DG V applied for a commitment over « 2 000 to be made for a contract to be concluded with the complainant. The contents of the internal note drawn up by or for Mrs Q. on that occasion strongly suggested that contract VC/1999/0020 was indeed meant to cover the complainant's work on the final report of the Gyllenhammar group and not a new report. Mrs Q.'s note of 14 April 1999 pointed out that the *final report* of the Gyllenhammar group had to be prepared and that the complainant was ready to do so within good time. Mrs Q. also noted that the price foreseen appeared to be very good, given that the preparation of the interim report had cost « 3 000. It was true that the final report of the Gyllenhammar group had already long been finalised when this note was drawn up. It further seemed that according to the relevant rules, the work covered by the contract had to be carried out within the time period specified therein, that is to say after the contract had been notified to the complainant. It should be borne in mind, however, that contract 980114 relating to the work on the interim report had also been concluded several months after the work had been carried out. It further appeared that when the Commission's Financial Control had raised a query in this context, the date foreseen for the performance of the service had simply been changed. It thus appeared that it was not impossible within DG V for a contract to be drawn up after the relevant service had already been performed.

9. *Finally* , the Ombudsman noted that according to the evidence submitted to him, the complainant appeared to have claimed from the very beginning that contract VC/1999/0020 was



meant to cover his work on the final report. The complainant's letter to the Commission of 20 January 2000 reiterated this view and complained about what the complainant perceived to be the unilateral change of the terms of the contract by DG V. In such circumstances, the Ombudsman considered it inexplicable that the Commission nevertheless at no time wrote to the complainant to explain its position. The Commission's claim that it did provide such explanations by telephone failed to convince, given that there was no record whatsoever of any such conversations and that there was no reference to such explanations in any of the letters that were exchanged between the Commission and the complainant.

10. The Ombudsman's provisional conclusion, therefore, was that the Commission's failure to pay the complainant the sum of $\text{€} 3\,000$ that appeared to have been agreed orally between the complainant and Mrs D. for his work on the final report of the Gyllenhammar group could be an instance of maladministration.

The possibility of a friendly solution

On 15 November 2001, the Ombudsman submitted a proposal for a friendly solution to the Commission. In his letter, the Ombudsman suggested that the Commission should consider paying the complainant the sum of $\text{€} 3\,000$, together with interest as from 25 September 1999.

In its reply of 14 January 2002, the Commission noted that its proposal to make an ex-gratia payment of $\text{€} 1\,000$ to the complainant and the proposal for a friendly solution submitted by the Ombudsman were similarly in search of an amicable solution and that there was only a difference in the sum to pay. The Commission informed the Ombudsman that despite the fact that the signed contract only amounted to $\text{€} 2\,000$, it agreed to accept the Ombudsman's proposal and would pay the complainant the sum of $\text{€} 3\,000$ with interest as from 25 September 1999.

In his observations sent on 30 January 2002, the complainant informed the Ombudsman that he was satisfied with the outcome and thanked the Ombudsman for his help.

THE DECISION

1 Failure to pay for work performed by the complainant

1.1 The complainant claimed that the Commission should pay him a sum of $\text{€} 3\,000$ for work carried out by him for the Commission in 1998, together with interest as from 25 September 1999. He also asked for a formal apology from two Commission officials.

1.2 The Commission initially rejected this claim but offered to make an ex-gratia payment of $\text{€} 1\,000$ to the complainant.

1.3 On 15 November 2001, the Ombudsman submitted a proposal for a friendly solution to the Commission. In his letter, the Ombudsman suggested that the Commission should consider paying the complainant the sum of $\text{€} 3\,000$, together with interest as from 25 September 1999.

1.4 On 14 January 2002, the Commission informed the Ombudsman that it agreed to accept his proposal and would pay the complainant the sum of $\text{€} 3\,000$ with interest as from 25 September



1999.

1.5 The complainant informed the Ombudsman that he was satisfied with the result that had been reached.

1.6 It appears from the Commission's comments and the complainant's observations that the Commission has taken steps to settle the complaint and has thereby satisfied the complainant.

2 Conclusion

On the basis of the European Ombudsman's inquiries into this complaint, it appears that the Commission has taken steps to settle the matter and has thereby satisfied the complainant. The Ombudsman therefore closes his file.

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

Yours sincerely,

Jacob SÖDERMAN

(1) Mrs D. claimed that the discussion had been between her and the complainant's wife rather than the complainant himself. There was however no need further to examine this question, since what was important was the understanding that had been reached concerning the work that was to be carried out.

(2) In her testimony, Mrs D. claimed that the rapporteur had objected to this. However, the notes of the meeting did not record any such objection.