

Decision of the European Ombudsman on complaint 1440/2000/IP against the European Commission

Decision

Case 1440/2000/IP - Opened on 07/12/2000 - Decision on 30/05/2001

Strasbourg, 30 May 2001

Dear Ms M.,

On 30 October 2000, you lodged a complaint with the European Ombudsman, in your capacity as President of the Italian cultural association "Kalón". The complaint, made against the European Commission, related to the alleged unfair rejection by the institution of the project presented by your association following the call for proposal n° 2000/ 101/08 of 8 April 2000 in the framework of the Programme "Culture 2000".

On 7 December 2000, I forwarded the complaint to the President of the European Commission. The European Commission sent its opinion on 8 March 2000 and, on 12 March 2000, I forwarded it to you with an invitation to make observations, which you sent on 12 April 2000.

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

To avoid misunderstanding, it is important to recall that the EC Treaty empowers the European Ombudsman to inquire into possible instances of maladministration only in the activities of Community institutions and bodies. The Statute of the European Ombudsman specifically provides that no action by any other authority or person may be the subject of a complaint to the Ombudsman.

The Ombudsman's inquiries into your complaint have therefore been directed towards examining whether there has been maladministration in the activities of the European Commission.

THE COMPLAINT

Following the call for applications published in the Official Journal of 8 April 2000, in the framework of the Programme Culture 2000, the Italian association Kalón, presented the project "*9 artisti per 90 giorni - potere e sogno*" (9 artists for 90 days - power and dream).



By letter of 8 August 2000, the Commission informed the complainant that the application presented by her association was unsuccessful. According to the Commission, the project (i) did not involve the minimum requested number of three co-organizers (absence of the compulsory signature on the application form) and (ii) was not made to the Commission by the responsible authorities of the project leader's State of origin through its permanent Representative to the European Union.

On 18 September 2000, the complainant asked the institution to reconsider its decision. She contested the first reason given by the Commission to justify the exclusion, alleging that, as allowed by the vade-mecum on grant management, she enclosed a signed declaration of the co-organizers concerning their participation in the project. Regarding the second reason of exclusion, she recognised that the association made a mistake when sending the application. She apologised for it, and pointed out that it was due to the large number of documents that had to be filled in and to the complexity of the information laid down in the vade-mecum on grant management.

Against this background, the complainant lodged a complaint with the Ombudsman, in which she made the following allegations:

- the Commission had not carefully examined the project presented by the association Kalón, although it complied with the criteria listed in the call for applications;
- the Commission did not reply to her letter of 18 September 2000.

THE INQUIRY

The European Commission's opinion

In its opinion on the complaint, the Commission stated in summary the following:

Concerning the complainant's first allegation, the institution recalled that "Kalón" presented a project under the category "specific innovative and/or experimental actions" foreseen as implementing measure for the culture 2000 programme. According to point III d) of the Implementation of the Programme for the year 2000 and call for application notice, it would " (...) promote intercultural dialogue and mutual exchange between European cultures and other cultures, organised in third countries as a joint effort between the Cultural Institutes and/or other cultural operators from the Member States and the third countries involved, focusing on shared European cultural themes. These actions should involve three Cultural Institutes and/or other public cultural operators established in the third country in question. Proposals concerning such actions will be made to the Commission by the responsible authorities of the project leader's State of origin through its permanent Representative to the European Union".

The project's selection procedure was carried out in three stages, by a Commission committee. After the first stage, concerning the check on the conformity and acceptability of applications, the project presented by "Kalón" was rejected since it did not respect the criteria established in the call for applications (1) .



Regarding the absence of the compulsory signature of all the organizers on the application form, the Commission recognised, as the complainant had argued, the possibility to send a declaration signed by the organizers. However, the Commission pointed out that the only document in its possession was a letter of patronage delivered by the Embassy of Norway and by the Embassy of Denmark. There were no indications regarding the involvement of those countries in the implementation of the project. Furthermore, the project was not made to the Commission by the responsible authorities of the project leader's State of origin through its permanent Representative to the European Union.

Concerning the complainant's second allegation, the Commission regretted the delay in giving an answer and apologised for it. The institution stated that, although the complainant did not add any new element in her letter of 18 September 2000, it carried out a review of the project presented by "Kalón".

As a result of this in-depth examination, it appeared that, in addition to the reasons for the rejection of the project indicated in the letter of 8 August 2000, other criteria were not fulfilled. From the information given in the application form, it appeared that the project would be developed only in Italy, instead of being organised in third countries (point III d. of the call for application) and the budget was not in balance and not expressed in euros. According to the Vade-mecum on grant management, all grant applications must be supported by a forward budget showing all the costs and revenue that the beneficiary considers necessary to carry out the project. The forward budget must be sufficiently detailed to allow identification, monitoring and control of the operations proposed; it must be in balance, i.e total revenue and total expenditure must be equal and expressed in euros, as a rule.

The Commission informed the European Ombudsman that a letter containing this information was sent to the complainant on 8 February 2001.

The complainant's observations

The complainant, who generally maintained her original complaint, criticised the fact that the Commission, having re-examined the project presented by "Kalón", had highlighted new elements for its exclusion. In the complainant's view, this shows that during the first selection procedure, the project's evaluation was not carefully carried out.

She also stressed that the Commission could not contest the fact that the balance was not expressed in euros, since this currency will be in force only from 1 January 2002.

As a general comment, she underlined that the association has respected the criteria laid down in the call for applications.

THE DECISION

1 The Commission's handling of the project

1.1 The complainant alleged that the Commission had not carefully examined the project presented by the association Kalón in the framework of the Programme Culture 2000, although



it complied with the criteria listed in the call for applications.

1.2 In its opinion, the Commission stressed that the project was not made to the Commission by the responsible authorities of the project leader's State of origin through its permanent Representative to the European Union. Furthermore, the Commission pointed out that in the application form there were no indications regarding the involvement of third countries in the implementation of the project. The only document sent by the complainant was a letter of patronage delivered by the Embassy of Norway and by the Embassy of Denmark.

1.3 After a re-examination of the concerned project, as requested by the complainant, it was clear to the Commission that, in addition, other criteria were not fulfilled. It appeared that the project would be developed only in Italy, instead of being organised in third countries (point III d. of the call for application) and the budget was not in balance and not expressed in euros, as expressly requested.

1.4 From the information given by both the complainant and the European Commission, it appears that the institution gave reasons for its decision to exclude the complainant's project and that these reasons were based on the criteria laid down in the Official Journal and in the vade-mecum on grant management, published in all the official languages of the Union on the web-site www.europa.eu. The Ombudsman considers that the complainant did not provide any evidence to state that the Commission did not act in accordance with good administrative practices.

1.5 The Ombudsman considers therefore that there is no maladministration as regards this aspect of the case.

2 Failure to reply to the complainant's letter

2.1 The complainant alleged that the Commission had not replied to her letter of 18 September 2000.

2.2 The Commission regretted the delay in replying and apologised for it. It also pointed out that a reply was forwarded to the complainant on 8 February 2001 a copy of which was attached to its opinion.

2.3 It is good administrative practice for the administration to reply to letters it receives from citizens within a reasonable period. Since the Commission has expressed its regrets for the delay which has occurred and finally answered to the complainant, the Ombudsman does not consider it necessary to pursue any inquiry into the matter.

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 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

(1) OJ C - 101 of 8 April 2000.