



Decision of the European Ombudsman on complaint 285/2001/IP against the European Commission

Decision

Case 285/2001/IP - Opened on 28/03/2001 - Decision on 05/09/2001

Strasbourg, 5 September 2001

Dear Mr F.,

On 26 February 2001, you made a complaint to the European Ombudsman concerning the Commission's handling of a request for information you made in January 2001.

On 28 March 2001, I forwarded the complaint to the President of the Commission. The Commission sent its opinion on 15 June 2001. I forwarded it to you with an invitation to make observations. On 21 July 2001, you informed my services by e-mail that you did not wish to send any observations.

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

THE COMPLAINT

On 7 January 2001, the complainant, a free lance consultant on landscape planning, reclaiming and environmental restoration design, environmental research and management, wrote to the Commission in order to get information on the results of the NICOLAS Research Project 1997-2000 - Project Number ENV4 - CT97 - 0395, financed by the European Union.

The complainant asked the Commission (1) if the data of the tests would be public or confidential; (2) in case they were public, if they would be wholly or partially available; (3) when all the data and results concerning the project would be published; (4) in which format they would be available; (5) if they would be available from the direct partners and if all the partners reported in the Web were at that date involved in the project.

On 8, 9, 20, 30 January and on 7, 12, 13 and 19 February e-mail exchanges between various Commission officials and the complainant took place. The latter, who was not satisfied by the Commission's replies, then lodged a complaint with the Ombudsman.

In his complaint, he made the following claim:

- the institution should reply to the issues raised in his letter of 7 January 2001, and allow him access to the information requested or give reasons in case of refusal.

THE INQUIRY **The Commission's opinion**

In its opinion, the Commission stated that the project in question ended on 31 December 2000 and that it received a hard copy and a CD-ROM of the final report on 12 February 2001.



However, due to some technical problems, the Technological Implementation Plan (TIP) which contained information on the achieved project results was not forwarded. By letter of 22 February 2001, the Commission awarded a supplementary period of two months to the NICOLAS project group for providing the TIP.

In these conditions, it was impossible for the Commission's services to decide which data could be disclosed without breaching any intellectual property rights. The Commission's services forwarded the complainant's request to the Commission's scientific officer responsible for the project's co-ordination and asked him to deal with the complainant's requests since he was in a better position to do so. Unfortunately, he did not react immediately. However, he forwarded the request to the NICOLAS project co-ordinator both because the information was not yet available and because he was aware of some existing problems between the complainant and some members of the NICOLAS consortium.

The Commission recognised that the scientific officer failed to give the complainant reasons for his approach to the matter and apologised for that.

Furthermore, the Commission stressed that on 26 April 2001 it received the TIP on the NICOLAS project. All the data and information requested by the complainant were declared public. In the meantime, on 18 April 2001, the NICOLAS project co-ordinator informed the complainant accordingly and replied to the questions raised by the complainant in his previous correspondence. The Commission forwarded a copy of the message sent to the complainant to the Ombudsman. The NICOLAS project co-ordinator also apologised that for technical reasons there was a delay in updating the Project's homepage.

The Commission finally stated that a hard copy of the NICOLAS Final Report has been forwarded to the complainant.

The complainant's observations

The Commission's opinion was forwarded to the complainant with an invitation to make observation, if he so wished. On 21 July 2001, the complainant informed the Ombudsman's services that he considered it useless to send any observations since, in his view, no constructive results would be achieved.

THE DECISION 1 The Commission's handling of the complainant's request

1.1 On 7 January 2001, the complainant wrote to the Commission to get information on the results of the NICOLAS Research Project 1997-2000 - Project Number ENV4 - CT97 - 0395, financed by the European Union. Since he did not received the information requested he lodged a complaint with the Ombudsman, in which he claimed that the institution should reply to the issues raised in his letter of 7 January 2001, and allow him access to the information requested or give reasons in case of refusal.

1.2 In its opinion, the Commission pointed out that when the complainant made his requests, the Technological Implementation Plan (TIP) of the NICOLAS project, which contained information on the achieved project results, was not available. It was therefore impossible for the Commission to decide which data could be disclosed.

The institution also regretted that the scientific officer responsible for the project's



co-ordination and who was asked to deal with the complainant's request did not react immediately and did not give reasons to the complainant for his approach to the matter.

1.3 Principles of good administration require public administrations to respond to queries from citizens within a reasonable period of time and provide information on request without undue delay.

1.4 In the present case, an intensive exchange of correspondence took place between the complainant and the Commission's services following the complainant's request for information.

1.5 The Commission recognised the unfortunate circumstance that when the scientific officer responsible for the project's co-ordination was asked to deal with the complainant's request, he did not react immediately. Moreover, when he decided to forward the complainant's request to the NICOLAS project co-ordinator, he failed to give the complainant clear reasons for his approach. The institution apologised for it.

1.6 Furthermore, it appears that when the institution received the final report of the NICOLAS project, as well as the TIP which contained information on the achieved project's results, it informed the complainant accordingly in due time and send him the requested information.

1.7 On the basis of the above, there appears to have been no maladministration from the Commission in this case.

2 Conclusion

On the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by 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