

Decision of the European Ombudsman on complaint 346/2001/IP against the European Commission

Decision

Case 346/2001/IP - Opened on 26/03/2001 - Decision on 24/10/2001

Strasbourg, 24 October 2001

Dear Mr S.,

On 9 March 2001, you made a complaint to the European Ombudsman concerning the Commission's decision to select the IRSSAE Lombardia, in the framework of the European Programme "*European Year of Languages 2001*".

On 26 March 2001, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 5 June 2001 and I forwarded it to you with an invitation to make observations, if you so wished. No observations appear to have been received from you.

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

THE COMPLAINT

By Decision No 1934/2000/EC of the European Parliament and of the Council of 17 July 2000, the year 2001 was designated as the European Year of Languages (hereinafter EYL).

In order to achieve the objectives laid down in the Decision, the European Commission launched a call for proposal (1) opened to organisations from within the European Union and the European Economic Area. Furthermore, it created a Discussion Forum on the Commission's Web-site where everybody could give contributions and have an exchange of views with other users.

The Italian organisation IRSSAE Lombardia participated in the call for proposal and the Commission decided to select the project.

The complainant intervened on the Discussion Forum raising some doubts concerning the Commission's decision to select the project presented by IRSSAE Lombardia. He envisaged a possible case of conflict of interest, since the beneficiary was among the members of the Selection Board.



The complainant's contribution was removed from the Discussion Forum by the Commission.

In his complaint to the Ombudsman, the complainant alleged that the Commission's decision to remove his contribution from the Discussion Forum, unilaterally and without giving reasons, was against the principle of freedom of expression.

He also claimed that the Commission should clarify the potential conflict of interest raised by the selection of IRSSAE Lombardia, which was among the members of the Selection Board.

THE INQUIRY

The Commission's opinion

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

As regards the complainant's first allegation, the institution recalled that the rules concerning the use of the Discussion Forum for the European Year of Languages 2001 (www.eurolang2001.org) were available on the site in the eleven official languages of the Union. The complainant should therefore be aware of them and of the fact that, as foreseen by the "Terms and conditions", the use of the site constitutes its acceptance.

According to these rules, the European Commission and the Council of Europe or the site administrators EurO&M acting on their behalf reserve the right to refuse or remove any contribution without warning and giving a reason. The aim of such a provision is not to stifle the debate, but all contributions must remain respectful to individuals, organisations and specific countries. Contributions that for the content or vocabulary are judged abusive, rude, defamatory, insulting or otherwise detrimental may be removed without explanation.

However, despite this provision, the institution pointed out that, the day on which the complainant's message was removed, a message was sent to the e-mail address provided by him. The message explained the reasons behind the Commission's decision to remove his contribution, i.e the message was considered as defamatory towards the Commission and an unspecified IRSSAE in Italy. Moreover, a copy of the "House rules" in Italian was sent to the complainant.

As regards the complainant's second allegation, the Commission stressed that the selection procedure of the applications received was conducted in accordance with Decision 1934/2000 establishing the EYL.

Article 4 (2) of the Decision foresees that *"each Member State shall designate one or more appropriate bodies to be responsible for participation in the EYL, the coordination and the implementation at national level of the measures provided for, including through assistance with the selection procedure described in article 7"*.

Article 7 (1) establishes that *"Application for the co-financing (...) shall be submitted through the*



body or bodies designated under article 4(2). They shall be assessed on the basis of objective criteria. The Commission shall take the utmost account of the assessment provided by the bodies concerned" .

The Commission pointed out that the IRSSAE Lazio was nominated by the Italian Ministry of Education (Ministero della Pubblica Istruzione) as national contact point for Italy, by letter of 19 July 2000. This nomination was made following two requests from the Commission made on 10 January and on 10 July 2001 to the Permanent Representative of Italy to nominate two persons to represent Italy on the Expert committee and a national point in Italy for the implementation of the EYL measures.

The institution was therefore not involved in this choice.

The project presented by IRRSAE Lombardia, on behalf of the IRSSAE network in Italy, was one of the 18 projects received from Italy.

On 30 October 2000, the Commission received a communication from the IRRSAE Lazio, national contact point for Italy, in which this body pointed out a case of conflict of interest, since it featured the content and the partnership of the project. As a consequence, the IRRSAE Lazio did not take part in the decision-making process that resulted in the selection of the project presented by IRRSAE Lombardia.

Finally, the Commission stressed that there was no conflict of interest because the nomination of the national body was a matter entirely managed by the Member State. The national body responsible for the selection at national level declared its interest itself and therefore did not take part in the decision-making progress and the representative of the Member State abstained from the decision to approve the list of projects.

The complainant's observations

The Commission's opinion was forwarded to the complainant for observations. No observations appear to have been received by the Ombudsman.

THE DECISION

1 The Commission's decision to remove the complainant's contribution from the Discussion Forum

1.1 The complainant alleged that the Commission's decision to remove his contribution from the Discussion Forum, unilaterally and without giving reasons, was against the principle of freedom of expression.

1.2 The Commission stressed that the rules concerning the use of the Discussion Forum for the EYL 2001 were available on the site in the eleven official languages of the Union. The complainant should therefore be aware of them. According to these rules, the European Commission and the Council of Europe or the site administrators EurO&M acting on their behalf reserve the right to refuse or remove any contribution without warning and giving a reason.



However, despite this provision, the day on which the complainant's message was removed, a message was sent to e-mail address provided by him. The message explained the reasons behind the Commission's decision to remove his contribution, i.e the message was considered as defamatory towards the Commission and an unspecified IRRSAE in Italy.

1.3 As indicated in the "Terms and conditions" of the House rules concerning the use of the Discussion forum, all contributions must relate to the objective of the EYL, i.e to the promotion of language learning and the development of multilingual skills.

1.4 The Ombudsman considers that when the Commission decided to remove the complainant's contribution from the Discussion Forum, it acted in accordance with the established rules which the complainant should be aware. Furthermore, it appears that the Commission gave reasons for its decision in a message sent to the complainant the same day.

1.5 There appears to have been no maladministration by the Commission as concerns this aspect of the case.

2. The alleged conflict of interest

2.1 The complainant claimed that the Commission should clarify the possible conflict of interest raised by the selection of IRSSAE Lombardia, since it was among the members of the Selection Board.

2.2 The Commission stressed that the selection procedure of the applications received was conducted in accordance with Decision 1934/2000 establishing the EYL and that it was not involved in the nomination of the national contact point for Italy, the IRRSAE Lazio. This matter was solely decided upon by the Member State.

2.3 The project presented by the IRRSAE Lombardia was one of 18 projects received from Italy.

2.4 By communication of 10 October 2000, the national body responsible for the selection at national level declared its interest in the project presented by the IRRSAE Lombardia. It therefore did not take part in the decision-making process and the representative of the Member State abstained from the decision to approve the list of projects.

2.5 The Ombudsman considers that, from the information given by the Commission and not rebutted by the complainant, there are no reasons to question the regularity of the selection procedure carried out by the Commission.

2.6 It appears to have been no maladministration from the Commission as concerns this aspect of the case.

3 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

(1) Call for proposal (EAC/66/00), O.J. C - 257 of 8.9.2000, p. 06-11.