

## **Decision of the European Ombudsman on complaint 1661/2002/BB against the European Commission**

Decision

**Case 1661/2002/TS/BB - Opened on 19/11/2002 - Decision on 10/07/2003**

Strasbourg, 10 July 2003

Dear Mr N.

On 12 September 2002 you made a complaint to the European Ombudsman on behalf of Coordination Dynamic Therapy Center Oy, concerning the lack of reply to your complaint sent to the Commission on 12 March 2002.

On 6 November 2002, the Ombudsman's secretariat telephoned the Commission's services to find out if a reply could be sent promptly. On 19 November 2002, the Commission's services sent a copy of an acknowledgement of receipt dated 18 November 2002.

On 19 November 2002, I forwarded the complaint to the President of the Commission. The Commission sent its opinion on 27 January 2003 and I forwarded it to you with an invitation to make observations, which you sent on 27 March 2003.

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

### **THE COMPLAINT**

According to the complainant, he sent a complaint to the Commission on 12 March 2002, concerning free movement of services in Finland. The Commission sent an acknowledgement of receipt on 15 March 2002. The complainant sent further evidence to the Commission on 4 April, 2 May, 21 May and 23 May 2002, but has heard nothing more from the Commission.

The complainant alleges that the Commission has not replied to his complaint of 12 March 2002. He argues that the lack of reply is due to the fact that he wrote his complaint in Finnish. He therefore also alleges discrimination based on language within the Commission. He considers that this is against the European Union's commitment to the "liberty, democracy, respect of human rights and fundamental freedoms and the rule of law" (Article 6 of the Treaty of the European Union).



## THE INQUIRY

As the complaint concerned lack of reply, the Ombudsman's secretariat telephoned the Commission's services to find out if a reply could be sent promptly. The Commission's services promised to look into the matter and on 19 November 2002 sent a copy of an acknowledgement of receipt dated 18 November 2002. Since an acknowledgement of receipt does not constitute a reply, the Ombudsman decided to open an inquiry into the present case.

### **The Commission's opinion**

In its opinion, the Commission made, in summary, the following points:

On 13 March 2002, the Commission received the complainant's correspondence concerning the refusal of the Finnish authorities to authorise the use of a physiotherapy method for the re-education of handicapped persons.

Although the Commission services acknowledged the receipt of the complainant's correspondence on 15 March 2002, it was only registered as a complaint on 18 November 2002 and an acknowledgement of receipt was sent to the complainant. The Commission regrets this delay.

The complainant has on several occasions sent ample documentation in support of his complaint. This documentation included a complaint form and its annexes (about 100 pages), a videocassette and a book. Due to this voluminous material, the Commission has not been able to reply to the complainant. However, a thorough analysis is under preparation.

The complaint form did not contain all necessary details to prepare a thorough analysis. In addition, the annexed documents needed to be translated. Taking into account the workload of the translation services and the large number of pages, the Commission services required more time to handle the complainant's complaint and to prepare a detailed reply as soon as possible.

### **The complainant's observations**

The complainant made, in summary, the following points:

The Commission's opinion admits the existence of faults of its actions. The complainant made two suggestions to improve the handling of complaints. Firstly, each Unit of the Commission should employ at least one person who would be able to prepare a summary in Finnish. Secondly, translation work could be carried out in the Member States.

According to the complainant, there is a slight misunderstanding about the subject matter of his complaint to the Commission. The Finnish authorities have allowed the use of the therapy method in other companies. It appears that the prohibition to use this method is only applicable in companies in which a certain doctor is a party.

The complainant observed that the Commission had not provided any explanations regarding the delay in registering his complaint.



## THE DECISION

### 1 Alleged lack of reply

1.1 The complainant alleges that the European Commission has not replied to his complaint sent to the Commission on 12 March 2002. The complaint concerned free movement of services in Finland. According to the complainant, the Commission sent an acknowledgement of receipt on 15 March 2002. The complainant sent further evidence to the Commission on 4 April, 2 May, 21 May and 23 May 2002, but has not received a reply to his complaint.

1.2 According to the Commission, it received the complainant's correspondence on 13 March 2002 and acknowledged receipt on 15 March 2002. However, the correspondence was only registered as a complaint on 18 November 2002. The Commission regrets this delay. The complainant had on several occasions sent ample documentation in support of his complaint. This documentation included a complaint form and its annexes, a videocassette and a book. A thorough analysis is under preparation. The complaint form did not contain all necessary details and the annexed documents needed to be translated. Taking into account the workload of the translation services and the large number of pages, the Commission services required more time to handle the complainant's complaint in order to prepare a detailed reply as soon as possible.

1.3 The Ombudsman notes that Article 41 of the Charter of Fundamental Rights of the European Union provides that every person has the right to have his or her affairs handled within a reasonable time by the institutions and bodies of the Union. In the present case, the Commission has expressed regret for the delay in registering the letter as a complaint and explained why the delay occurred. In a Communication to the European Parliament and the European Ombudsman, the Commission has promised to deal with complaints normally within one year (1). The Ombudsman therefore understands the Commission's undertaking to prepare a detailed reply to the complainant as an indication that it intends to comply with the procedure laid down in the Communication.

1.4 Based on the above findings, the Ombudsman considers that no further inquiries into the present complaint are justified.

### 2 Conclusion

For the reasons stated in paragraph 1.3 above, the Ombudsman considers that no further inquiries into the present complaint are justified. The Ombudsman therefore closes the case.

The Ombudsman will forward to the Commission, for information, the complainant's observations which contain his suggestions for improvements in the procedure.

Yours sincerely,

P. Nikiforos DIAMANDOUROS



(1) Commission Communication to the European Parliament and the European Ombudsman on relations with the complainant in respect of infringements of Community law, 2002 OJ C244/5.