

## **Decision of the European Ombudsman on complaint 1960/2002/JMA against the European Commission**

Decision

**Case 1960/2002/JMA - Opened on 26/11/2002 - Decision on 15/07/2003**

Strasbourg, 15 July 2003

Dear Ms R.,

On 12 November 2002, you lodged a complaint with the European Ombudsman, on behalf of the "Colectivo de Lesbianas, Gays, Transexuales y Bisexuales de Madrid" (GOGAM). It concerned an alleged failure on the part of the Commission to complete the payment of a Community financed project that you had carried out as a sub-contractor of the main party, the Eberhard Karls Universität, under agreement SOC 97 201135 05F02.

On 26 November 2002, I forwarded the complaint to the President of the European Commission. The European Commission sent its opinion on 26 February 2003. I forwarded it to you with an invitation to make observations, if you so wished. I received your observations on 5 May 2003.

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

### **THE COMPLAINT**

In November 2002, a complaint was lodged with the Ombudsman, on behalf of the Colectivo de Lesbianas, Gays, Transexuales y Bisexuales de Madrid (GOGAM). According to the complainant, the relevant facts were as follows:

During 1996 and 1997, the complainant jointly with other contributors, participated in an AIDS' related project called EUROVITHA, which was co-ordinated by the Department of Psychology of the University of Tuebingen in Germany.

On 7 October 1997, the Commission agreed to finance part of the project (Agreement SOC 97 20113505F02 "Evaluation of Guided Group Programmes for People with HIV/AIDS, Creation of a Network of Therapists in D.E.I."). The parties to the contract were the Commission and the Department of Psychology of the University of Tuebingen, whereas COGAM appeared as an associated contractor.



Despite the fact that its contribution to the contract had been concluded in February 1999, COGAM has not received its payment of 8.200 €. In reply to COGAM's requests to the project's main contractor, it was informed that the situation resulted from the Commission's failure to honour its financial commitments.

The complainant wrote to the Commission on 7 June 2002 asking for information on the state of the file, and requesting the payment of its outstanding fees. COGAM did not receive a reply to its letter.

On the basis of the above, the complainant alleged, in summary, that the Commission had not replied to COGAM's request for information of 7 June 2002. Since the project was completed in February 1999, she claimed that the Commission should make the final payment, so that all subcontractors can receive their dues.

## **THE INQUIRY**

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

In its opinion, the Commission made the following comments:

On 7 October 1997 the complainant, as a subcontractor, and the Eberhard Karls Universität, as the main contractor, entered into an agreement with the Commission for the implementation of a project on the "Evaluation of Guided Group Programmes for People with AIDS/VIH". The project received Community assistance through the EUROVITHA Community Programme on the fight against AIDS. In his capacity as project co-ordinator, Professor Martin Hautzinger of the Eberhard Karls Universität was responsible for selecting sub-contractors for specific parts of the project, and concluding individual contracts. The Commission noted that COGAM was one of these sub-contractors, with which the institution did not have any direct contractual relationship.

The Commission's financial contribution was to be paid to the main contractor, namely Eberhard Karls Universität, following the submission of the necessary reports. The first technical and financial reports had been presented to its services in October 1999. The final report, however, was only received three years later, in November 2002. Whilst the technical aspects of the final report seemed satisfactory, its financial section could not be approved by the Commission services as a result of the lack of justifying documents.

On 27 March 2002, the Commission wrote to Professor Martin Hautzinger, and requested him to submit the final report, so that all the Community assistance could be paid. In its letter, the Commission suggested that the contractor inform all his subcontractors of the state of play. On 7 June 2002, the Commission received a request from COGAM for the payment of its outstanding fees. It emerged from that request that the co-ordinator of the project had not explained the situation to all its sub-contractors, as the Commission had requested.

Since the Commission could not make any payment to parties with which it did not have a direct contractual relationship, it urged the Eberhard Karls Universität to submit the justifying



documents required for the final payment by letter of 15 October 2002.

On 14 November 2002, the Commission received the final report from the Eberhard Karls Universität. On 20 December 2002, the institution proceeded to make the final payment to the contractor for an amount of 59.859, 30 €.

**The complainant's observations**

On 5 May 2003, the Ombudsman received the complainant's observations.

COGAM explained that, on the basis of the information submitted in the Commission's opinion, they had contacted the project's co-ordinator. As a result, the Eberhard Karls Universität had proceeded to pay COGAM its contribution to the project for an amount of 8,200 €.

The complainant concluded by expressing COGAM's gratitude to the Ombudsman for his assistance in finding a solution to the problem.

## **THE DECISION**

It appears from the Commission's comments and the complainant's observations that the Commission has taken steps to settle the matter and has thereby satisfied the complainant. The Ombudsman therefore closes the case.

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS