

Decision of the European Ombudsman on complaint 2024/2002/OV against the European Parliament

Decision

Case 2024/2002/OV - Opened on 05/12/2002 - Decision on 30/10/2003

Strasbourg, 30 October 2003

Dear Mrs J.,

On 19 November 2002, you made a complaint to the European Ombudsman on behalf of ETC Brussels N.V. concerning the rejection by the European Parliament of several bids for translation works.

On 5 December 2002, I forwarded the complaint to the President of the Parliament. On 29 January 2003, you sent additional information concerning your complaint. Parliament sent its opinion on 28 April 2003 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

According to the complainant, the relevant facts are as follows:

In April 2002, the complainant, a Brussels based company, sent 11 bids further to various calls for tenders for translation services launched by the European Parliament. Several of the complainant's bids were rejected.

As regards the bids for Swedish and French, Parliament informed the complainant in July 2002 that there were too many linguistic mistakes. Given that the tender specifications mentioned a rejection of a bid in case of more than five linguistic mistakes, the complainant sent an e-mail on 7 August 2002 requesting clarification from Parliament concerning the mistakes. In its reply of 3 October 2002, Parliament summed up the mistakes, without however indicating what they consisted of.

As regards the bid for Italian, it was first rejected because of financial reasons. When the complainant wrote back to Parliament, the latter replied on 3 October 2002 stating that it had



re-evaluated the bid but that this time it was eliminated because of linguistic mistakes, namely spelling, grammatical and punctuation errors. No details were however given concerning the nature of these mistakes.

Finally, as regards the bid for Greek, it was rejected without an exact explanation. There were apparently five bids for Greek, three of which were selected. The complainant has obtained information that the first selected bidder did not accept the tender. The complainant has however no information about who are in the third and fourth positions. The complainant wrote to Parliament on 7 October 2002 and sent a reminder letter on 31 October 2002, but received no reply.

On 19 November 2002, the complainant lodged the present complaint with the Ombudsman making the following three allegations :

1. Parliament has not explained in detail why the complainant's bids for Swedish and French have been rejected because of linguistic mistakes.
2. Parliament gave a new reason for the rejection of the bid for Italian, but gave no details concerning the linguistic mistakes which were the reason for this rejection.
3. Parliament gave no exact reason for the rejection of the bid for Greek.

On 29 January 2003, the complainant wrote to the Ombudsman informing him that, since lodging the complaint, Parliament had provided more information concerning the linguistic mistakes in the complainant's bids.

As regards the Swedish and French bids, the complainant accepted the mistakes pointed out by Parliament.

As regards the Italian bid, the complainant observed that it could agree with certain corrections, some of which were rather a question of style. However, Parliament gave two different reasons.

As regards the Greek bid, the complainant still had no information concerning the rejection.

THE INQUIRY

The European Parliament's opinion

As regards the first allegation, Parliament stated that it informed the complainant on 22 July 2002 that its offers for the calls for tenders ref. CRE-0207-FR-EP and CRE-0211-SV-EP had been rejected at the selection stage due to the poor linguistic quality of the offer. Parliament referred to Article 2.2 of the General Specifications which mentions that the *"presentation of a tender which contains more than five spelling, punctuation or grammar errors will lead to exclusion"*. Following a request for more detailed information as to why it had reached this decision, Parliament informed the complainant by letter of 30 September 2002 of the exact number and type of errors in the two bids. Following an e-mail from the complainant of 19



November 2002 requesting evidence of the errors, Parliament replied by return mail that it would send photocopies of those pages of the bids with the errors clearly indicated. This proof was sent by registered letter of 13 December 2002 after the complainant's request. The complainant's letter to the Ombudsman is dated 19 November 2002, i.e. the same date as the request for evidence of the errors in the bids.

As regards the second allegation, Parliament stated that, further to the complainant contesting the exclusion from the calls for tenders ref. CRE-0205-ES-EP and CRE-0208-IT-EP on the basis of inadequate turnover, both offers were re-examined.

By letter of 30 September 2002, Parliament acknowledged that the offer for Italian had been excluded erroneously at the selection stage since proof was indeed given of adequate turnover. In the same letter, Parliament informed the complainant of the outcome of the re-evaluation of the offer, namely the non-selection due to the poor linguistic quality of the bid, i.e. a total of 15 spelling and grammar errors. The complainant's claim that there were no details of the nature of the errors is therefore unfounded. Parliament subsequently offered to provide photocopies of the Italian bid with the errors indicated. The complainant's bid for Italian was excluded at the selection stage in accordance with the selection criteria (namely Article 2.2 of the General Specifications).

As regards the third allegation, Parliament stated that it had informed the complainant by registered letter of 22 October 2002 that its bid for the call for tenders ref. CRE-0203-EL-EP had been rejected at the award stage because it did not represent a sufficiently high quality/price ratio. All bidders whose offers were rejected received such a letter informing them of the reasons for the rejection. In addition, in accordance with the legal requirements, Parliament published a contract award notice in the Official Journal J 2002/S 178-140831 and on its web-site. It is clear from this notice that one main contract and two reserve contracts were awarded. The awarding authority decided to offer only 2 reserve contracts rather than the maximum possible of 4 announced in the tender specifications. This decision is fully in accordance with the applicable legislation which imposes no obligation to award contracts after a tender procedure. Parliament decided, on the basis of an opinion from its Legal Service, not to award the contract to the first contractor proposed.

The complainant's observations

The complainant made no observations on Parliament's opinion.

THE DECISION

1 The alleged failure of explanation for the rejection of the bids for Swedish and French

1.1 The complainant is a Brussels based company which sent 11 bids further to various calls for tenders for translation services launched by the European Parliament. The complainant alleges that Parliament has not explained in detail why the complainant's bids for Swedish and French have been rejected because of linguistic mistakes.

1.2 In its opinion, Parliament stated that, further to an e-mail from the complainant requesting evidence of the errors, it replied that it would send photocopies of those pages of the bids with



the errors clearly indicated. This proof was sent by registered letter of 13 December 2002 after the complainant's request which was made on the same date as the complaint to the Ombudsman.

1.3 In her letter of 29 January 2003, the complainant indicated that it accepted the mistakes pointed out by Parliament. This aspect of the complaint therefore appears to have been settled by Parliament.

2 The alleged failure of explanation for the rejection of the bid for Italian

2.1 The complainant alleges that Parliament gave a new reason for the rejection of the bid for Italian, but gave no details concerning the linguistic mistakes which were the reason for this rejection.

2.2 Parliament explained that, by letter of 30 September 2002, it acknowledged that the offer for Italian had been excluded erroneously at the selection stage since proof was indeed given of adequate turnover. Parliament at the same time informed the complainant of the outcome of the re-evaluation of the offer, namely the non-selection due to the poor linguistic quality of the bid, which contained a total of 15 spelling and grammar errors. Parliament subsequently offered to provide photocopies of the Italian bid with the errors indicated.

2.3 The Ombudsman notes from the above that Parliament has explained to the complainant why a new reason was given for the non-selection of the complainant: Parliament clarified to the complainant that the bid had initially been excluded erroneously and has also offered to provide concrete information about the errors, which the complainant indeed appears to have obtained. In her letter of 29 January 2003, the complainant observed that it could agree with certain corrections. Since Parliament appears to have taken appropriate action to correct the error that it has acknowledged, no further inquiries appear to be necessary with regard to this aspect of the case.

3 The alleged failure of explanation for the rejection of the bid for Greek

3.1 The complainant alleges that Parliament gave no exact reason for the rejection of the bid for Greek. In its letter of 29 January 2003, the complainant observes that it still had no details concerning this rejection.

3.2 Parliament observes that it informed the complainant by registered letter of 22 October 2002 that its bid for the call for tenders had been rejected at the award stage because it did not represent a sufficiently high quality/price ratio. Furthermore, an award notice was published in the Official Journal, from which it appears that one main contract and two reserve contracts were awarded. Parliament also explains that it had decided, on the basis of an opinion from its Legal Service, not to award the contract to the first contractor proposed.

3.3 It appears from the above that Parliament did take steps to inform the complainant of the reason for the rejection of the bid. Parliament also provided further information in its opinion to the Ombudsman. No instance of maladministration was thus found with regard to this aspect of the case.

4 Conclusion

It appears from Parliament's comments and the complainant's observations that Parliament has



taken steps to settle part 1 of the complaint and has thereby satisfied the complainant.

No further inquiries appear to be necessary into part 2 of the complaint.

On the basis of the Ombudsman's inquiries into part 3 of this complaint, there appears to have been no maladministration by Parliament. The Ombudsman therefore closes the case.

The President of the European Parliament will also be informed of this decision.

Yours sincerely,

P. Nikiforos DIAMANDOUROS