

Decision of the European Ombudsman on complaint 2147/2002/(TS)BB against the European Commission

Decision

Case 2147/2002/TS/BB - Opened on 28/01/2003 - Decision on 08/12/2003

Strasbourg, 8 December 2003

Dear Mr X.,

On 11 December 2002, the European Ombudsman received your complaint dated 19 November 2002 concerning the European Commission's failure to reply to your letter dated on 27 September 2001.

On 6 January 2003, the Ombudsman's secretariat telephoned the Commission's services to inquire whether a reply to you had been prepared and whether a copy of that reply could be sent to the Ombudsman. On 22 January 2003, the Commission's services forwarded to the Ombudsman a copy of their letter translated into Finnish and dated 17 January 2003. The Ombudsman considered that the letter did not adequately address the reasons for the failure to reply and, therefore, opened an inquiry.

On 28 January 2003, the complaint was forwarded to the President of the European Commission. The Commission sent its opinion on 8 April 2003. I forwarded it to you with an invitation to make observations. 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

On 27 September 2001, the complainant sent a letter to the European Commission in order to complain about the insufficient instructions for the use of certain paints and solvents in Finland. The complainant had become sensitive to solvent vapour during the ten years he had worked as a painting teacher. This led to an occupational disease, and he had to retire from his post in 1999. In the letter to the Commission, the complainant alleged that while offering the safety information for the paint products, the producer relied on an information source based on Directive 91/155/EC.

The complainant had received an acknowledgement of receipt from the Commission, dated on 3



October 2001. The complainant notes that it was mentioned in the letter of acknowledgement of receipt that his letter was transferred to the Commission DG Health and Consumer Protection.

In his complaint to the European Ombudsman, the complainant alleges that the Commission has still not replied to his complaint.

THE INQUIRY

The European Commission's opinion

The European Commission made, in summary, the following points:

The Commission apologised for the undue delay in answering the inquiry made by the complainant concerning insufficient instructions for the use of certain paints and solvents. The Commission explained that the delay was caused by the need for translation and for some resulting internal clarifications required to establish which service was competent to reply. The Commission also noted that in the end a number of different services contributed to the reply to ensure that it was comprehensive.

As regards the Commission's answering to the complainant's original letter sent on 27 September 2001, the Commission stated that further to the informal request of the European Ombudsman on 6 January 2003, it could be confirmed that a letter answering the complainant's query in full was sent to him in English on 17 January 2003, directly followed by a translated version in Finnish.

Regarding the subject matter of the unanswered letter, the Commission stated that the inquiry of the complainant raised two points about occupational diseases and data safety sheets in the workplace. The recognition and compensation for occupational diseases belong to the competence of the Member States and therefore the appropriate authorities in Finland should be contacted for further information. Directive 91/155/EEC (1) concerns safety data sheets for dangerous substances and preparations and puts the responsibility for producing such sheets on the person who places the substance or preparation on the market. Member States must ensure that these persons comply with the information requirements specified under the Directive that should be contained on such sheets.

The complainant's observations

The complainant did not send any observations.

THE DECISION

1 Alleged failure to reply to the complainant's letter of 27 September 2001

1.1 The complainant sent a letter to the European Commission on 27 September 2001 in order to complain about the insufficient instructions for the use of certain paints and solvents in Finland. The complainant had received an acknowledgement of receipt from the Commission, dated on 3 October 2001. The complainant alleges that he has not received a reply to his complaint from the Commission.



1.2 In its opinion on the complaint, the Commission apologised for the undue delay in answering the inquiry made by the complainant concerning insufficient instructions for the use of certain paints and solvents. The Commission explained that the delay was caused by the need for translation and for some resulting internal clarifications required to establish which service was competent to reply. The Commission also noted that in the end a number of different services contributed to the reply to ensure that it was comprehensive.

1.3 The Ombudsman notes that, according the Commission's Code of good administrative behaviour (2) , a reply to a letter addressed to the Commission shall be sent within fifteen working days from the date of receipt of the letter by the responsible Commission department. If a reply cannot be sent within the deadline mentioned above, the member of staff responsible should send a holding reply, indicating a date by which the addressee may expect to be sent a reply in the light of this additional work, taking into account the relative urgency and complexity of the matter.

1.4 The Ombudsman notes that the Commission has acknowledged the excessive delay in answering the complainant's letter, has apologised for it and has provided an explanation. Furthermore, the Ombudsman notes that, following the complaint to the Ombudsman, the Commission sent a substantive reply to the complainant within two weeks. The Ombudsman therefore considers that the Commission has taken appropriate corrective action to deal with the excessive delay and that no further inquiries into this case are therefore justified.

2 Conclusion

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

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS

(1) Commission Directive 91/155/EEC of March 1991 defining and laying down the detailed arrangements for the system of specific information relating to dangerous preparations in implementation of Article 10 of Directive 88/379/EEC (Official Journal L 76, 22.3.1991 pp. 35-41; Finnish special edition : Chapter 15 volume 10 p.59; Swedish special edition: Chapter 15 Volume 10 p. 59).

(2) OJ 2000 L 308/26 at 308/32.