

## **Decision of the European Ombudsman on complaint 842/2003/JMA against the European Commission**

Decision

**Case 842/2003/JMA - Opened on 16/05/2003 - Decision on 04/11/2003**

Strasbourg, 4 November 2003

Dear Mr B.,

On 30 April 2003, you lodged a complaint with the European Ombudsman against the European Commission on behalf of the company "Farming and Wildlife Advisory Group Limited" (FWAG). Your complaint concerns the alleged failure of the Commission to pay FWAG a grant of € 59,598 for the organisation of a seminar-conference on "Multifunctional Agriculture - a European Model".

On 16 May 2003, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 27 August 2003. I forwarded it to you with an invitation to make observations, which you sent on 1 October 2003.

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

### **THE COMPLAINT**

The complaint is made by a Member of the European Parliament. According to the complainant, the facts of the case are, in summary, as follows:

On 17 August 2001, the European Commission agreed to award a grant to the firm "Farming and Wildlife Advisory Group Limited" (FWAG), for the organisation of a seminar on "Multifunctional Agriculture - a European Model". The institution was to subsidise 50% of the event's eligible costs, namely 59.598 €.

The Commission offered to pay an advance of 35.579 €, corresponding to 60% of the total grant on the basis of a bank guarantee. The amount, however, was never paid, on the grounds that FWAG had made a technical mistake regarding the amount to be advanced.

By January 2002, the seminar had been completed and FWAG had submitted all required reports to the Commission. The institution, however, did not make the full payment of the



outstanding 59.598 €, despite many requests sent to the institution. In their reply to FWAG's reminders, the Commission services limited themselves to stating that the claim was being processed.

In his complaint to the Ombudsman, the complainant claims, in summary, that the Commission should make the payment of the grant awarded to FWAG increased by interest accrued since January 2002, and that its services should apologise to his constituent.

## THE INQUIRY

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

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

The Commission explained that on 31 January 2002, it had received the technical report foreseen in Article 5 (1) of the contract. As set out in Article 5 (4) of the contract, the institution had then five additional months for the examination of the document, plus sixty days for the payment of the invoice. Accordingly, the date at which the payment was due and interest started to accrue was 29 August 2002. In accordance with Article 13 (3) of the general terms and conditions annexed to the grant agreement, the interest was calculated at 2.339,38 €. The applicable rate was 4,80 % equivalent to the European Central Bank rate of 3,30 % plus 1,50 % increase.

The institution explained that some technical problems had delayed the payment. It pointed out, however, that its services had reimbursed FWAG the whole grant on 1 July 2003, and the accrued interest on 21 August 2003.

The Commission apologised for the inconvenience caused to FWAG by its handling of the case.

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

In his observations, the complainant accepts that the problem concerning the late payment of the grant as well as the corresponding interest has been solved. He noted, however, that although the Commission's opinion included an apology, it did not give any explanation for what had happened. He expressed his unhappiness at the Commission's limited reference to technical problems as the cause for the late payment, and requested a more elaborate explanation on the nature and timing of these technical problems, and the reason why the promises of prompt payment which had regularly been made to FWAG had not been fulfilled.

The complainant thanked the Ombudsman for his involvement, as a result of which some solid progress had been made.

## THE DECISION

### **1 Late payment of the grant awarded to FWAG**

1.1 The complainant alleges that the Commission has not made the payment of the grant awarded to the firm "Farming and Wildlife Advisory Group Limited" (FWAG), for the organisation of a seminar-conference on "Multifunctional Agriculture - a European Model". He claims



payment of the grant, increased by interest accrued since January 2002.

1.2 According to the Commission, the date at which the payment was due and interest started to accrue was 29 August 2002. Its services had reimbursed FWAG the whole grant on 1 July 2003, and the accrued interest on 21 August 2003.

1.3 In his observations, the complainant accepts that the problem concerning the late payment of the grant as well as the corresponding interest has been solved. The Ombudsman therefore concludes that this aspect of the case has been settled by the European Commission to the complainant's satisfaction.

## **2 Complainant's request for an apology**

2.1 The complainant requested that the Commission should apologise to his constituent. In its opinion, the Commission explained that some technical problems had delayed the payment and apologised for the inconvenience caused to FWAG by its handling of the case.

2.2 By expressing its apology for the late payment to the complainant, the Ombudsman considers that the Commission has taken adequate steps to settle the matter of the complainant's request for an apology. The Ombudsman does not therefore consider it necessary to pursue further inquiries as regards this aspect of the case.

2.3 The complainant has pointed out, however, that the Commission did not adequately explain what had happened. He has therefore requested a more elaborate explanation on the nature and timing of the technical problems, and the reason why the promises of prompt payment which had regularly been made to FWAG were not fulfilled.

2.4 The complainant's request for additional explanations constitutes, in effect, a new allegation that the Commission has failed to provide an adequate explanation. Since this allegation was not part of the original complaint, the Ombudsman does not deal with it in the framework of the present inquiry, in order to avoid delay in reaching a decision on the original complaint.

2.5 The alleged lack of adequate explanation has therefore been registered as a new complaint with the registration number 2013/2003/JMA. The complainant will be informed separately of the Ombudsman's assessment of the admissibility of the new complaint.

## **3 Conclusion**

It appears that the Commission has settled the complainant's allegation concerning late payment and interest to the complainant's satisfaction and taken adequate steps to settle the matter of the complainant's request for an apology. The complainant's new allegation that the Commission has failed to provide an adequate explanation will be dealt with separately. The Ombudsman therefore closes the case.

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

Yours sincerely,



P. Nikiforos DIAMANDOUROS