

## **Decision of the European Ombudsman on complaint 953/2003/(FA)OV against the European Parliament and the European Commission**

Decision

**Case 953/2003/(FA)OV - Opened on 03/07/2003 - Decision on 24/06/2004**

Strasbourg, 24 June 2004

Dear Mr X,

On 26 May 2003, you made a complaint to the European Ombudsman concerning the termination and suspension of translation contracts by the European Parliament and the European Commission.

On 3 July 2003, I forwarded the complaint to the Presidents of Parliament and of the Commission. The Parliament sent its opinion on 23 September 2003. The Commission sent its opinion on 1 October 2003. I forwarded them to you with an invitation to make observations, which you sent on 29 November 2003.

On 19 February 2004, you sent an additional letter with some questions and a request to receive the opinions of the Commission and the Parliament in their original language. I replied to your letter on 23 March 2004, enclosing the French (European Commission) and English (European Parliament) versions of the opinions.

On 25 March 2004, I received your additional letter of 19 March 2004 (1) to which you attached a letter that you had recently received from the Commission.

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

### **THE COMPLAINT**

In May 2003, a complaint was made to the Ombudsman by Mr. X, on behalf of a Greek translation company, against the European Parliament and the European Commission. The complaint concerned the non-renewal, suspension or termination of contracts for the provision of translation services. According to the complainant, the contracts involved two separate companies: a) company "X" (hereafter "X") and b) company "XZ" (hereafter "XZ"). For some of the contracts concluded, those companies were part of larger consortiums.



### *The complaint against the European Parliament*

As regards the contracts with the European Parliament, the complainant describes the facts as follows:

The External Translations Unit of Parliament informed the complainant in May 2000 that contract (CRE) 1997 with "X" (translation into Greek of the verbatim reports of Parliament's proceedings, three-year contract, renewable for two years) would not be renewed. Although the complainant asked for reasons, no explanation was given by Parliament, which concluded a more expensive contract with another company for the same services.

In 2002, "X" participated in a new call for tenders (CRE 0203-EL-EP) launched by Parliament for the translation into Greek of the verbatim reports of Parliament's proceedings. This tender was first cancelled due to technical reasons. When Parliament finally proceeded with this tender, "X" was excluded. On 18 September 2002, the complainant wrote an e-mail to Parliament asking for the reasons for the exclusion of "X" from the tender. On 19 September 2002, Parliament replied by e-mail that the complainant would be informed in due time by letter. However, no such letter was received.

On 26 June 2002, Parliament informed the complainant that it had decided to terminate with immediate effect two contracts (2000/PE/FL-EL 013 and 2000/PE/FL-FR 023) signed respectively with "XZ" (trading name "PL") and with company "T" - "XZ", on the basis of the results of an investigation by the European Anti-Fraud Office (OLAF), which showed that three translators providing translation services to this company were, at the same time, officials of the Economic and Social Committee (ECOSOC). In October 2002, the complainant's lawyer wrote to Parliament asking for a meeting with the responsible Parliament officials. This was refused on the basis that this was a secret OLAF case. Further to the complainant's new request for explanations in a letter of 6 March 2003, Parliament replied on 8 April 2003 that the contracts had been terminated because the OLAF investigation showed that the complainant had used staff of a European Institution for carrying out translation assignments and that this constituted a clear breach of the complainant's contractual obligations.

According to the complainant, Parliament's arguments are unjustified, because the OLAF investigation concerned only the company "X", not "XZ", which is the company with which Parliament signed contracts. The latter company never used the services of the Community officials identified by the OLAF investigation. The complainant also points out that he was unaware of the fact that the three translators in question were EU officials.

The complainant's allegations against the European Parliament can be summarised as follows:

1. Parliament failed to provide the complainant with reasoning for the non renewal of contract (CRE) 1997 with "X" and the conclusion of a new and more expensive contract with another company.
2. Parliament failed to provide the complainant with reasons for the exclusion of "X" from the call for tenders CRE-0203-EL-EP, although its e-mail of 19 September 2002 to the complainant



promised to do so.

3. Parliament's decision to terminate unilaterally contracts 2000/PE/FL-EL 013 and 2000/PE/FL-FR 023 signed respectively with "XZ" ("PL") and with "T" - "XZ", without referring to any contract article as the legal basis, is unlawful and improper. The termination of the contracts was also unjustified because the OLAF investigation did not concern "XZ", but the other company "X".

#### *The complaint against the European Commission*

As regards the contracts with the European Commission, the complainant describes the facts as follows :

By letter of 10 July 2002, the Commission informed the complainant that it had decided to suspend contract no B13442 fr/97 , concluded by the consortium "X-Kr-PI", pending the results of an OLAF investigation. The Commission's letter did not refer to any article of the contract as the legal basis for the suspension. Moreover, the three ECOSOC officials mentioned in the OLAF investigation did not participate in this particular translation contract.

By another letter of the same date, the Commission informed the complainant of its decision also to suspend the execution of contract no B6622 el/00 with "XZ", pending the results of the OLAF investigation (2) .

On 9 April 2003, the Commission informed the complainant's lawyer that all the above mentioned contracts had expired and that, as a consequence of the OLAF investigation, no prolongation had been granted. The Commission also informed the complainant that the OLAF investigation report had been transmitted to the national judicial authorities.

The complainant's allegations against the Commission can be summarised as follows:

1. The Commission's decision to suspend unilaterally contract n° B13442 fr/97 with "X-Kr-PI", without referring to any contract article as the legal basis, is unlawful and improper.
2. The Commission's decision to suspend contract n° B6622 el/00 with "XZ" is unjustified, as there was never any breach of that contract. Moreover, the OLAF investigation did not concern this company but the other company "X".

## **THE INQUIRY**

### **The European Parliament's opinion**

Parliament first explained its understanding of the situation of the different companies involved:

Following a public invitation to tender issued by Parliament in 1997, "X" (trading name "PL") concluded a contract with the European Parliament for a duration of three years (1997-2000) for the purpose of translating the verbatim reports of proceedings of the European Parliament.

In 2000, the same company submitted an offer in reply to a call for tenders issued by the



European Parliament (CRE 0203-EL-EP) for the translation of Parliament's proceedings into Greek. The complainant signed the offer on behalf of "PL".

The company "T" - "XZ" - "MP" signed a contract on 15 September 2000 with the European Parliament for the translation from the other ten official languages into French (framework contract N° FL/2000/PE/FL-FR 023). The complainant signed the contract, which entered into force on 1 October 2000, on behalf of "PL".

"XZ" - "PL" signed a contract on 24 August 2000 with the European Parliament for translation from the other ten official languages into Greek (framework contract N° FL/2000/PE/FL-EL 013). The complainant signed this contract, which entered into force on 1 October 2000, on behalf of "PL".

As regards the first allegation, Parliament pointed out that the contract was concluded for an initial period of three years which duly expired on 30 September 2000. The possibility provided by Article 3 of the contract to renew for a period of two additional years, "by written agreement of the two parties at least three months prior to the expiry of the contract" was an option left to the discretion of the parties. Neither of the parties was thus under any obligation to justify its decision not to seek renewal. Written notification was required only to formalise renewal of the contract, not to formalise non-renewal. Furthermore, Parliament does not claim that its decision not to seek renewal of the contract had nothing to do with the fact that, in violation of Article 6 (1) of its contract, the "PL" translation agency, of which the complainant was the legal representative, had entrusted translation work to at least three Community officials. Parliament was informed of this on 10 November 1999 by the Translation Centre which, along with the Commission, also had contacts with the "PL" agency.

Following a meeting on this subject on 17 January 2000 with Parliament and the Commission, the Translation Centre contacted OLAF which subsequently questioned representatives of Parliament and the Translation Centre. At that point, OLAF, taking into account the obvious close links between the complainant and both companies, urged Parliament not to divulge to "X" the real reasons for not renewing the CRE contract for 1997 so that the inquiry into the "PL" agency would not be revealed.

As regards the second allegation, Parliament observed that "X" was not excluded from the call for tenders but, at the stage of awarding the contract, the responsible authorising officer on 18 June 2002 withdrew his proposal to conclude a reserve contract with "X - PL", *"on the grounds that that company was the subject of a fraud investigation by OLAF (secret OLAF note of 16 June 2002)"*.

Parliament stressed that the name of the manager of this company, Mr X, appears in the organisational chart of the company under the heading "management", and that he is described as manager and legal representative of the company. Given that the complainant is de facto performing a management function within the company "X" ("PL"), which is under investigation by the Greek legal authorities following the OLAF inquiry, Parliament could not include that company on the list of reserve contractors.



All these factors are such as to create confusion surrounding the management of the complainant's various translation companies and give rise to serious doubts as to whether those companies are in fact independent. Parliament notes that one and the same individual always appears to be behind the various company names and that that individual has been the subject of investigations by OLAF, which subsequently contacted the Greek legal authorities.

As regards *the third allegation*, Parliament referred to its answers on the first two allegations.

**The Commission's opinion**

As regards the *first allegation*, the Commission observed that contract n° B 13442 fr/97, concluded with the group "PL-Kr-PI" on 13 October 1997, was to terminate on 30 September 2002, except in case of a renewal.

On 6 March 2000, OLAF opened an inquiry concerning the provision of translation services by ECOSOC officials in the framework of a contract of the company with the European Parliament. The case was closed on 29 June 2001 and the investigation report was transmitted to ECOSOC as well as to the Belgian and Greek judicial authorities. The Commission services were also informed of this inquiry via the inter-institutional co-operation agreement in the field of external translation.

By letter of 10 July 2002, the Commission therefore suspended the contract with the said company and, furthermore, has not renewed it.

As regards the *second allegation*, the Commission observed that, in conformity with Article 4.2 of contract n° B6622 el/00, the Commission invited the complainant by letter of 11 June 2002 to sign a renewal.

However, after having noticed that the two contractors Group "PL-Kr-PI" (n° B13442 fr/97) and "XZ PL" (n° B6622 el/00), were represented by the same person, namely Mr X, and had the same seat and telephone numbers, and considering the various aspects of the investigation, the Commission considered those elements as justifying the suspension measure. Therefore, the Commission sent on 10 July 2002 a letter suspending the renewal procedure which had been initiated.

**The complainant's observations** *With regard to Parliament's opinion*

As regards the first allegation, the complainant made no observations on Parliament's opinion.

As regards the second allegation, the complainant observes that nowhere does the OLAF report state in its conclusion that "X" has committed fraud against the European Parliament or the European Commission. The file was passed to the Greek prosecuting authorities so that they could decide if there was evidence of wrongdoing. However, no authority has filed charges against "X" or the complainant himself.

Parliament's reply is therefore not properly substantiated. This is also the case for Parliament's comments on the third allegation.



The complainant also pointed out different dates mentioned with regard to the OLAF investigation (Parliament's opinion mentions a secret OLAF note dated *16 June 2002* , according to which his company is under investigation for fraud; according to documents obtained from the public prosecutor of Athens, OLAF issued its final conclusion on *03 April 2002* ; The Commission's opinion dated 1 October 2003 mentions that the case was closed on *29 June 2001* ; OLAF's letter to the complainant of 10 September 2003 mentions that the case was closed on *9 June 2002* ).

*With regard to the Commission's opinion*

The Commission's reply on both allegations is inadequately substantiated. The complainant could not find the legal basis for the suspension of the contract in any of the terms and conditions of the contracts and regulations.

The complainant's observations also contained copies of correspondence of the complainant with OLAF requesting information on the latter's investigation (letters from the complainant to OLAF of 9 June 2003 and 21 July 2003, replies from OLAF of 4 July 2003 and 10 September 2003).

#### **Further letters from the complainant**

On 19 February 2004, the complainant sent another letter to the Ombudsman asking, among others, a question concerning point 3.5 of the original complaint, namely whether the companies "X" and "XZ" have the right to work with the translation services of the European Parliament and Commission. The complainant wanted in particular to know whether the collaboration of "X" with the three external collaborators - in ignorance of the fact that they were officials of the EU - until the end of 1999, constitutes a serious professional infringement in accordance with provisions of EU law which the complainant was not in a position to know.

By letter of 23 March 2004, the Ombudsman replied to the complainant that the Ombudsman's task is to inquire whether there is maladministration by the institution and that it is not the Ombudsman's function to evaluate the conduct of the complainant directly. This letter crossed with the complainant's letter of 19 March 2004 in which he repeated some questions and also enclosed a copy of a letter of the Commission of 21 January 2004 informing him that the bid of "XZ" for tender N° 2003/S 076-66784 was excluded on the basis of Article 93 (1) (c) of the Financial Regulation (guilty of grave professional misconduct proven by any means which the contracting authority can justify). The complainant who has never been convicted and has no criminal record wants to know who should decide about the grave professional misconduct. The complainant also wonders whether this tactic of the European Commission will last permanently.

## **THE DECISION**

### **I. The scope of the Ombudsman's inquiry**

I.1 In his letter of 3 July 2003, the Ombudsman informed the complainant that, in dealing with complaints concerning a contractual relationship with a Community institution or body, the Ombudsman limits his inquiry to examining whether the Community institution or body has provided him with a coherent and reasonable account of the legal basis for its actions and why it believes that its view of the contractual position is justified. If that is the case, the Ombudsman



concludes that his inquiry has not revealed an instance of maladministration. The Ombudsman's decision on a contractual case does not affect the right of the parties to have the dispute subsequently examined and authoritatively settled by a court of competent jurisdiction.

I.2 By letter of 19 March 2004, the complainant made a new allegation concerning tender N° 2003/S 076-66784. The Ombudsman considers that it would not be appropriate to delay a decision on the present case in order to investigate the new allegation. The complainant has the possibility, however, to make a further complaint with regard to this new allegation if he wishes to do so.

I.3 Nor does the Ombudsman find it necessary, for the purpose of dealing with the present case, to conduct inquiries as regards the point made in the complainant's observations concerning the different dates given for the OLAF inquiry and his argument that he was unaware that the three translators in question were EU officials.

## **II. The allegations against Parliament 1 The alleged lack of reasoning for the non renewal of contract (CRE) 1997**

1.1 The complainant alleges that Parliament failed to provide the complainant with reasoning for the non renewal of contract (CRE) 1997 with "X" and the conclusion of a new and more expensive contract with another company.

1.2 Parliament observed that the possibility provided by Article 3 of the contract to renew for a period of two additional years "by written agreement of the two parties at least three months prior to the expiry of the contract" was an option left to the discretion of the parties. Neither of the parties was under an obligation to justify its decision not to seek renewal. Written notification was required only to formalise renewal of the contract, not to formalise non-renewal.

1.3 The Ombudsman notes that the possible renewal of contract (CRE) 1997 is governed by Article 3, paragraph 1 of the contract. Nothing in this article obliges Parliament to provide reasons in case of non-renewal of the contract. This article merely foresees the case where the contract is renewed, which needs to be done by written agreement of both parties, at least three months before the expiry of the contract. The Ombudsman therefore considers that the European Parliament has provided a coherent and reasonable account of the legal basis for its actions and concludes that there is no maladministration as regards this aspect of the complaint.

## **2 The alleged lack of reasoning for the exclusion from the call for tenders CRE-0203-EL-EP**

2.1 The complainant alleges that Parliament failed to provide him with reasons for the exclusion of "X" from the call for tenders CRE-0203-EL-EP, although its e-mail of 19 September 2002 to the complainant promised to do so.

2.2 Parliament observed that the company was not excluded from the call for tenders, but that, at the stage of awarding the contract, the responsible authorising officer withdrew on 18 June 2002 his proposal to conclude a reserve contract with the company, "on the grounds that that company was the subject of a fraud investigation by OLAF (secret OLAF note of 16 June 2002)".





2.3 The Ombudsman notes that, on 18 September 2002, the complainant wrote an e-mail to Parliament asking to be informed of the reason for its exclusion from the call for tenders. Parliament replied by e-mail of 19 September 2002 that the complainant would be informed in due time by letter. However, eight months later, the complainant had still not received a reply.

2.4 Principles of good administrative behaviour require that every decision of an Institution which may adversely affect the rights or interests of a private person shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision (3) . The same principles require that the institutions shall respect the legitimate and reasonable expectations that members of the public have in the light of how the institution has acted in the past (4) .

2.5 In the present case, it appears that Parliament has failed to indicate to the complainant the reasons why the tender of "X" for the call for tenders *CRE-0203-EL-EP* was not selected, despite giving a specific undertaking to the complainant to provide such reasons. This constitutes an instance of maladministration and the Ombudsman makes a critical remark below.

### **3 The alleged unilateral termination of contracts 2000/PE/FL-EL 013 and 2000/PE/FL-FR 023**

3.1 The complainant alleges that Parliament's decision to terminate unilaterally contracts *2000/PE/FL-EL 013* and *2000/PE/FL-FR 023* , signed respectively with "XZ" ("PL") and with "T" - "XZ", without referring to any contract article as the legal basis, is unlawful and improper. According to the complainant, the termination of the contracts was also unjustified because the OLAF investigation did not concern "XZ", but the other company "X".

3.2 In its opinion, Parliament observed that several factors created confusion surrounding the management of the complainant's various translation companies and gave rise to serious doubts as to whether those companies were in fact independent. One and the same individual always appeared to be behind the various company names and that individual has been the subject of investigations by OLAF, which has subsequently contacted the Greek legal authorities.

3.3 With regard to this allegation, the Ombudsman has - as indicated above - to limit his inquiry to examining whether Parliament has provided him with a coherent and reasonable account of the legal basis for its actions and why it believes that its view of the contractual position is justified.

3.4 From the documentary evidence submitted with the complaint it appears that, in two identical letters dated 26 June 2002, Parliament informed the complainant that it had decided to terminate the above contracts (5) with immediate effect *"on the basis of the results of an OLAF investigation"* . The Ombudsman notes, however, that Parliament does not appear to have provided any information either as to what the results of the OLAF investigation were, or as to where the contractor could turn to obtain this information.

3.5 The Ombudsman observes that the rules concerning the termination of the contracts in question are laid down in Article 10.1 of the contracts, which provides that *"in the event of*





*failure by the contractor - duly established by the European Parliament and notified to the contractor in writing - to fulfil his obligations under this contract, the awarding authority reserves the right to terminate the contract at any time by registered letter" .*

3.6 The Ombudsman considers that mere reference to the "results of an OLAF investigation", without further information, does not constitute notification of a failure to fulfil an obligation under a contract. Parliament has thus not provided a coherent and reasonable account of the legal basis for its decision to terminate the contracts 2000/PE/FL-EL 013 and 2000/PE/FL-FR 023 with immediate effect. This constitutes an instance of maladministration and the Ombudsman makes a critical remark below.

### **III. The allegations against the Commission 4 The suspension of contract n° B13442 fr/97**

4.1 The complainant alleges that the Commission's decision to suspend unilaterally contract n° B13442 fr/97 with "X-Kr-PI", without referring to any contract article as the legal basis, is unlawful and improper.

4.2 The Commission observed that it had been informed of the results of an inquiry by OLAF, and that consequently, by letter of 10 July 2002, it suspended the contract with the company.

4.3 The Ombudsman notes that contract n° B13442 fr/97 was to expire on 30 September 2002 and that the Commission informed the complainant by letter of 10 July 2002 that it had "*decided to suspend the above contract pending the results of an OLAF investigation. This suspension (...) is of immediate effect*". The Ombudsman notes, however, that the Commission does not appear to have provided any information either as to what the results of the OLAF investigation were, or as to where the contractor could turn to obtain this information.

4.4 The Ombudsman also notes that the contract does not provide for the possibility of "suspension" and that, in substance, the Commission's action was equivalent to termination of the contract on 10 July 2002. The Ombudsman observes that the rules concerning the termination of the contract in question are laid down in Article 7.1 of the contract which provides that "*in the event of failure by the contractor - duly established by the Commission and notified to the contractor in writing - to fulfil his obligations under this contract, the Commission reserves the right to terminate the contract at any time*".

4.5 The Ombudsman considers that mere reference to the "results of an OLAF investigation", without further information, does not constitute notification of a failure to fulfil an obligation under a contract. The Commission has thus not provided a coherent and reasonable account of the legal basis for its decision to "suspend" contract n° B13442 fr/97 with immediate effect. This constitutes an instance of maladministration and the Ombudsman makes a critical remark below.

### **5 The suspension of contract n° B6622 el/00**

5.1 The complainant alleges that the Commission's decision to suspend contract n° B6622 el/00 with "XZ" is unjustified, as there was never any breach of that contract. Moreover the OLAF investigation did not concern this company but the other company "X".

5.2 The Commission observed that, in conformity with Article 4.2 of contract n° B6622 el/00, it



invited the complainant by letter of 11 June 2002 to sign a renewal. However, after noticing that the two companies were represented by the same person, namely the complainant, had the same seat and telephone numbers, and considering the various aspects of the investigation, the Commission concluded that those elements justified the suspension measure. Therefore, the Commission sent on 10 July 2002 a letter suspending the renewal procedure which it had initiated.

5.3 The Ombudsman notes that contract n° B6622 el/00 which expired on 23 June 2002 appears to have been renewed by tacit agreement for another year, until 23 June 2003 (6) . The Commission however informed the complainant by letter of 10 July 2002 that it had *"decided to suspend the above contracts (7) pending the results of an OLAF investigation. This suspension (...) is of immediate effect"* . The Ombudsman notes, however, that the Commission does not appear to have provided any information either as to what the results of the OLAF investigation were, or as to where the contractor could turn to obtain this information.

5.4 The Ombudsman also notes that the contract does not provide for the possibility of "suspension" and that, in substance, the Commission's action was equivalent to termination of the contract on 10 July 2002. The Ombudsman observes that the rules concerning the termination of the contract in question are laid down in Article 10.1 of the contract which provides that *"in the event of failure by the contractor - duly established by the Commission and notified to the contractor in writing - to fulfil his obligations under this contract, the awarding authority reserves the right to terminate the contract at any time by registered letter"* .

5.5 The Ombudsman considers that mere reference to the "results of an OLAF investigation", without further information, does not constitute notification of a failure to fulfil an obligation under a contract. The Commission has thus not provided a coherent and reasonable account of the legal basis for its decision to "suspend" contract n° B6622 el/00 with immediate effect (8) . This constitutes an instance of maladministration and the Ombudsman makes a critical remark below.

## **6 Conclusion**

On the basis of the Ombudsman's inquiries into parts 2, 3, 4 and 5 of this complaint, it is necessary to make the following critical remarks:

- *concerning the European Parliament:*

Parliament has failed to indicate to the complainant the reasons why the tender of "X" for the call for tenders CRE-0203-EL-EP was not selected, despite giving a specific undertaking to the complainant to provide such reasons. This constitutes an instance of maladministration.

Mere reference to the "results of an OLAF investigation", without further information, does not constitute notification of a failure to fulfil an obligation under a contract. Parliament has thus not provided a coherent and reasonable account of the legal basis for its decision to terminate the contracts 2000/PE/FL-EL 013 and 2000/PE/FL-FR 023 with immediate effect. This constitutes an instance of maladministration.

- *concerning the Commission:*

Mere reference to the "results of an OLAF investigation", without further information, does not constitute notification of a failure to fulfil an obligation under a contract. The Commission has



thus not provided a coherent and reasonable account of the legal basis for its decision to "suspend" contract n° B13442 fr/97 and contract n° B6622 el/00 with immediate effect (9) . This constitutes an instance of maladministration.

Considering that these aspects of the complaint concern procedures relating to specific events in the past and that the complainant does not appear to have made any claim for redress, it is not appropriate to pursue a friendly settlement of the matter.

The Ombudsman points out that, following the present decision, the complainant has the possibility to present a claim for redress to the Commission if he considers it appropriate to do so and to make a further complaint to the Ombudsman if necessary. The Ombudsman also points out that the contracts concerned give the complainant the right to bring legal proceedings in respect of any dispute. (10)

The Ombudsman therefore closes the case.

The Presidents of Parliament and the Commission will also be informed of this decision.

Yours sincerely,

P. Nikiforos DIAMANDOUROS

(1) The complainant's letter, which was received by the Ombudsman's secretariat on 25 March 2004, wrongly mentions as date "19-04-2004".

(2) This letter also referred to contract no B6622 el/97 . The complainant points out that this contract had been concluded with "X", and not with "XZ" as mentioned in the Commission's letter.

(3) Article 18 ("Duty to state the grounds of decisions") of the European Code of Good Administrative Behaviour adopted by the European Parliament in its resolution C5-0438/2000 of 6 September 2001 (available on the Ombudsman's website: <http://www.ombudsman.europa.eu>).

(4) Article 10 ("Legitimate expectations, consistency and advice") of the European Code of Good Administrative Behaviour adopted by the European Parliament in its resolution C5-0438/2000 of 6 September 2001 (available on the Ombudsman's website: <http://www.ombudsman.europa.eu>).

(5) The Ombudsman notes that those contracts had been renewed by tacit agreement in accordance with Article 4.2 of the said contracts.

(6) See Article 4.2 of the contract which provides that *"This contract may be renewed for up to*



*four further periods of one year each without, however, exceeding a total duration of five years. Where either party does not wish to renew the contract, the other party shall be informed by registered letter two calendar months prior to expiry of the contract."* In the absence of such a registered letter from the Commission in the present case, the contract had been renewed.

(7) This letter also concerned contract no *B6622 el/97* .

(8) This applies also to contract no *B6622 el/97* .

(9) This applies also to contract no *B6622 el/97* .

(10) See Article 15 of contracts 2000/PE/FL-EL 013 and 2000/PE/FL-FR 023; Article 11 of contract n° B13442 fr/97; and Article 14 of contract B6622 el/00.