

## Decision of the European Ombudsman on complaint 1018/2003/(ADB)PB against the European Commission

Decision

**Case 1018/2003/(ADB)PB - Opened on 02/07/2003 - Decision on 15/09/2004**

Strasbourg, 15 September 2004

Dear Mr P.,

On 10 June 2003, you made a complaint to the European Ombudsman concerning the alleged failure by the European Commission's Humanitarian Office to reply to questions related to the allocation of humanitarian aid by the European Union to North Korea and Zimbabwe. On 11 June 2003, you sent me an email with additional information relating to your complaint.

On 2 July 2003, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 7 November 2003. I forwarded it to you with an invitation to make observations, which, due to illness, you were only able to send me on 14 May 2004.

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

### THE COMPLAINT

In June 2003, the complainant submitted a complaint to the European Ombudsman concerning an alleged failure by the European Commission's Humanitarian Office (hereinafter 'ECHO') to reply to questions related to the allocation of humanitarian aid by the European Union to North Korea and Zimbabwe.

The complaint was based on the following correspondence:

On 14 May 2003, the complainant contacted ECHO to complain about the allocation of humanitarian aid to North Korea and Zimbabwe. On 2 June 2003 he repeated his complaint and pointed out that he had received no acknowledgement of receipt or reply to his email of 14 May 2003. He requested information about who would deal with his complaint, who was responsible for the decision to provide North Korea and Zimbabwe with humanitarian aid and against whom he could take action in order to contest these decisions.

On 3 June 2003, ECHO replied to the complainant's emails and advised him to visit ECHO's



website to find out more about its work. On 4 June 2003, the complainant thanked ECHO for the information provided on its website, but explained that this information was of a very general nature and therefore of little help to him. He repeated that he wished to complain against the decision to allocate EU funds to North Korea and Zimbabwe. On 10 June 2003, ECHO informed the complainant that it did not have complaint-handling competence, and advised him to contact the European Ombudsman.

On 10 June 2003, the complainant lodged a complaint with the European Ombudsman. Referring to his correspondence with ECHO, he posed the following three questions:

*1) "Who is responsible for the payment of EU money/aid?" 2) "How can I here take legal action against the already decided EU aid and stop this?" 3) "What legal remedies or redress bodies can I activate to stop the \*illegal\* payment of the money?"*

On 11 June 2003, the complainant forwarded to the European Ombudsman an additional email that he had sent to ECHO on that same day. In his email, the complainant posed similar questions to those referred to above, as well as other more detailed questions on the same matter.

The complainant alleged, in summary, that ECHO had failed to reply to his questions in relation to the allocation of humanitarian aid by the EU to North Korea and Zimbabwe.

## THE INQUIRY

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

In its opinion, the Commission gave a detailed account of its email correspondence with the complainant, and made the following comments:

In the period before the opening of the present inquiry, the complainant sent ECHO emails on 14 May, 2 June, 3 June, 4 June (two emails), 5 June, and 11 June 2003.

In his emails, he referred to two Commission decisions of May 2003, allocating EUR 7 500 000 to humanitarian aid to North Korea and EUR 13 000 000 to humanitarian aid to Zimbabwe. The complainant contested the merits of these decisions, requested a written explanation, and information on who was responsible. He stated that he wished to submit a formal complaint against the decisions.

ECHO initially invited the complainant to visit its website to obtain information on the objectives and the procedures followed in humanitarian aid operations. The website includes an organisation chart of the service with the names of the Heads of Units, all geographic desks responsible for the relevant countries and regions, as well as ECHO field experts. It appeared that the complainant consulted this information, and wrote an email to the Head of Unit in charge of African countries, asking whether he was *"responsible for the money to Zimbabwe"*. The complainant informed this official that he wanted *"to stop the carry-on and execution of the decision"* concerning humanitarian aid to Zimbabwe.



On 10 June 2003, the official responsible for ECHO's Information unit informed the complainant that ECHO was not competent to handle "complaints" against the adoption of humanitarian aid decisions, and informed the complainant about the possibility of contacting the European Ombudsman.

In his email dated 11 June 2003, the complainant asked ECHO for "concrete" answers to the following questions:

*"1. who is responsible for the development/presentation of the aid proposals for these two countries? 2. under what EU legislation were these proposals made? 3. who within the EU administration is responsible for the implementation of the Commission's decisions? 4. where can one make a ... complaint to stop these decisions?"*

In its reply of 13 June 2003, ECHO replied as follows:

*"1. According to the Framework Partnership Agreement ECHO works with UN agencies, Red Cross Societies and NGOs. These ECHO partners submit proposals for funding.*

*2. ECHO drafts a decision for the Commissioner for humanitarian aid based on the proposals of humanitarian organisations. These decisions are drafted according to the Humanitarian Aid Regulation 1257/96.*

*3. Once the decision is signed, ECHO geographical units issue grant agreements with the humanitarian organisations and monitor the work of its partners. The work itself is implemented by ECHO partners.*

*4. Concerning filing a complaint, you can certainly do that to the European Ombudsman, under Article 195 [ECT]. However, the legitimacy of such a complaint is unclear. As a honourable citizen of Europe (1) you may present alternatively a petition to the Petitions Committee of the European Parliament, Article 194 [ECT]."*

The expression "As a honourable citizen of Europe..." under point 4 was due to an error in the process of putting together the different contributions prepared by different services of ECHO. The correct sentence was "As a European citizen...". ECHO apologised for this error.

In an email to the ECHO on 10 July 2003 - i.e. following the opening of the present inquiry - the complainant insisted that his basic question had still not been answered, and asked to be provided with the names of those individual officials within ECHO who draft the proposals that ECHO submits to the European Commission. He repeated this request in an email to ECHO of 25 July 2003.

In light of the above facts, the Commission made, in summary, the following comments:

It was true that the answers were concise and did not elaborate on a number of elements, but it



had to be understood that ECHO tried to provide quick replies. The complainant kept insisting on questions for which he had already received an answer. In its replies, ECHO tried to avoid being drawn into an argumentative and fruitless exchange of emails. Having regard to these elements, and in accordance with the provisions of the Commission's Code of Good Administrative Behaviour for staff of the European Commission in their relations with the public (2), ECHO had not replied to the two last emails of 10 and 25 July 2003, as these were considered to be repetitive, abusive and pointless.

ECHO did not contest the complainant's legitimate right to oppose and protest against the aid decisions, and took note of his objections. However, his objections were basically of a political nature. The political control of the action of the European Commission lies with the European Parliament and the Member States. For this reason, the complainant was advised to contact the European Parliament and it seemed that he had introduced a petition against the Commission's decisions. Therefore, ECHO is of the opinion that the replies made by ECHO were correct and that no maladministration could be identified in this respect.

Finally, the "concrete" answers requested by the complainant were provided in the message sent on 13 June 2003. The only information that ECHO had not provided are the names of the officials who drafted the Commission decisions. However, it should be noted that this information is public and that ECHO had provided the complainant with the correct references to this public information and to other relevant documentation.

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

In his observations, the complainant stated that the Commission's opinion was wrong and incomplete. He considered that ECHO had failed to provide him with the names of the responsible individuals. He also considered that ECHO had failed to inform him that he had a right to bring the matter before the European Court of Justice. He claimed disciplinary action against, or dismissal of, the officials who had withheld this information. He furthermore elaborated on why he considered the aid decisions to be wrong and contrary to Community law.

## **THE DECISION**

### **1 Introductory remarks**

1.1 The Ombudsman opened this inquiry into the allegation that ECHO had failed to reply to the complainant's questions in relation to the allocation of humanitarian aid by the EU to North Korea and Zimbabwe.

1.2 In his observations on the Commission's opinion, the complainant appeared to raise new issues and allegations. He considered that ECHO had failed to inform him about his right to submit the case to the European Court of Justice. The complainant further claimed disciplinary action against, or dismissal of, the officials who had withheld this information. He also stated why he considered the aid decisions to be contrary to Community law.

1.3 The Ombudsman considers that it would not be appropriate to extend his present inquiry to these new allegation and claims, so as not to delay his decision on the original allegations. The complainant remains free, however, to submit a new complaint to the Ombudsman as regards



those new allegations and claims.

## **2 The alleged failure to reply**

2.1 At the time of the submission of the complaint on 10 June 2003, the complainant had written to the European Commission's Humanitarian Aid Office (ECHO) regarding certain humanitarian aid decisions of the Commission. ECHO initially referred the complainant to its website. When it became clear that the complainant wanted the content of his emails to be dealt with as a formal complaint, ECHO informed him that it did not have a complaint handling competence, and suggested that he contact the European Ombudsman.

In his complaint to the Ombudsman, the complainant appeared to allege that ECHO had failed to answer the following questions:

*1. "Who is responsible for the payment of EU money/aid?" 2. "How can I here take legal action against the already decided EU aid and stop this?" 3. "What legal remedies or redress bodies can I activate to stop the \*illegal\* payment of the money?"*

2.2 The Commission's opinion gave a detailed account of ECHO's correspondence with the complainant. In the complainant's emails of 14 May 2003 and 2 June 2003, the complainant asked for information on who was responsible for the aid decisions concerned. In its reply of 3 June 2003, ECHO referred the complainant to its website (3). In his email of 4 June 2003, the complainant repeated his request for information, and clarified that he wished to formally complain about the aid decisions in question. In its reply of 10 June 2003, ECHO informed the complainant that it was not competent to handle complaints about aid decisions.

On 13 June 2003, following the complaint to the European Ombudsman, ECHO sent the following reply to the complainant:

*"1. According to the Framework Partnership Agreement ECHO works with UN agencies, Red Cross Societies and NGOs. These ECHO partners submit proposals for funding.*

*2. ECHO drafts a decision for the Commissioner for humanitarian aid based on the proposals of humanitarian organisations. These decisions are drafted according to the Humanitarian Aid Regulation 1257/96.*

*3. Once the decision is signed, ECHO geographical units issue grant agreements with the humanitarian organisations and monitor the work of its partners. The work itself is implemented by ECHO partners.*

*4. Concerning filing a complaint, you can certainly do that to the European Ombudsman, under Article 195 [ECT]. However, the legitimacy of such a complaint is unclear. As a honourable citizen of Europe (4) you may present alternatively a petition to the Petitions Committee of the European Parliament, Article 194 [ECT]."*

In its opinion, the Commission also stated that ECHO had tried to avoid being drawn into an argumentative and fruitless exchange of emails with the complainant.



2.3 In his observations, the complainant maintained that ECHO had failed to provide him with the information requested, including the names of the responsible individuals.

2.4 It appears from the facts of the case that before the submission of his complaint to the Ombudsman on 10 June 2003, the complainant contacted ECHO by email on 14 May 2003, 2 June 2003 and on 4 June 2003 (two emails). ECHO replied to the complainant on 3 June 2003, 5 June 2003 and on 10 June 2003. In its replies, ECHO provided the complainant with general information on the Commission's humanitarian work, as well as information on ECHO's competence. On 13 June 2003, following the complaint to the Ombudsman, ECHO provided the complainant with answers to certain questions that had been left unanswered. In its reply, ECHO clarified to the complainant that humanitarian aid decisions are based on co-operation with aid organisations, and that the Commission - with ECHO as the managing service - is responsible for the decisions taken. ECHO furthermore made reference to the Community bodies that the complainant could contact in order to submit a formal complaint or petition.

2.5 Thus, in response to his requests to be informed about the responsibility for the aid decisions adopted by the Commission, ECHO informed the complainant that the Commission as an institution is responsible for the aid decisions, and that ECHO as a service is responsible for drafting the proposals. This appears to be a correct account of the legal situation. In response to his request for information on redress bodies, ECHO provided the complainant with references to the relevant Community institutions and bodies.

On this basis, the Ombudsman considers that there has been no maladministration with regard to these aspects of the complaint.

2.6 As regards the complainant's requests to know the names of individual ECHO officials involved in the drafting of the aid proposals submitted to the European Commission, the Ombudsman notes that the Commission in its opinion remarked that this information is public and that ECHO had provided the complainant with the correct references to this public information and to other relevant documentation. The Commission's opinion appears to refer to ECHO's online list of "Who is who" (5) , which contains the names of the desk officers responsible for the individual aid receiving countries, as well as the officials with overall responsibility for the separate regions. The complainant appears to have independently found and consulted this list, identifying the Head of Unit responsible for the region that includes Zimbabwe. The name of the desk officer for North Korea (DPRK) is equally available on the "Who is who" list under "Asia, Central and South America, Iraq" (6) .

In the light of the above, the Ombudsman considers that the Commission has responded adequately to the complainant's claim to receive the names of individual ECHO officials. It appears, therefore, that there is no maladministration with regard to this aspect of the complaint.

### **3 Conclusion**

On the basis of the Ombudsman's inquiries into this complaint, there appears to be no maladministration by the European Commission. 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) In the opinion, ECHO clarified that the sentence should have read "As a European citizen...", and apologised for the error.

(2) OJ 2000 L 308, p. 26.

(3) [http://ec.europa.eu/echo/index\\_en.htm](http://ec.europa.eu/echo/index_en.htm) [Link]

(4) In the opinion, ECHO clarified that the sentence should have read "As a European citizen...", and apologised for the error.

(5) [http://ec.europa.eu/echo/presentation/whoswho\\_en.htm](http://ec.europa.eu/echo/presentation/whoswho_en.htm) [Link]

(6) [http://ec.europa.eu/echo/presentation/staff\\_echo3\\_en.htm](http://ec.europa.eu/echo/presentation/staff_echo3_en.htm) [Link]