

## **Decision of the European Ombudsman on complaint 2205/2003/(BB)TN against the European Commission**

Decision

**Case 2205/2003/BB/TN - Opened on 18/12/2003 - Decision on 07/04/2004**

Strasbourg, 7 April 2004

Dear Mr W.,

On 17 November 2003, you made a complaint to the European Ombudsman against the European Commission concerning alleged non-payment for work that you had carried out on behalf of Eurostat.

On 18 December 2003, I forwarded the complaint to the President of the Commission. I received the Commission's opinion on 17 March 2004. On the same day, I received a letter from you informing me that you had received the remainder of the funds owed to you.

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

### **THE COMPLAINT**

In November 2003, a complaint was made to the Ombudsman against the European Commission concerning alleged non-payment for work that had been carried out on behalf of the Statistical Office of the European Communities (Eurostat).

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

In 2002, Eurostat asked him to participate in a project called "Global Assessment of the Russian Statistical System". The work was to be carried out under a contract with an organisation, CESD Communautaire, which in turn had a contract with the Commission. The Commission was to provide the funding.

The work was carried out in two parts. The complainant received payment for the first part, but has not been paid for his work relating to the second part. There has been no suggestion that the work was not carried out satisfactorily. Instead, he has not received payment from CESD Communautaire because the Commission has not provided CESD Communautaire with the necessary funds. Two invoices are involved, one for 8 609 € sent to CESD Communautaire on



22 April 2003, and another for 880 € sent on 3 July 2003.

In substance, the complainant claims that the Commission should make funds available to Eurostat so that CESD Communautaire can pay him for the work he has carried out on behalf of Eurostat.

## THE INQUIRY

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

In its opinion, the Commission makes the following comments:

CESD Communautaire was contracted by the Commission for the set-up and implementation of the "Statistics 5 Programme", which consists of projects for the benefit of counterpart countries such as Russia. The complainant participated, as a sub-contractor, in the implementation of the individual project "Global Assessment of the Russian Statistical System". It is CESD Communautaire, as the Commission's contractor, that is responsible for the implementation of the programme by way of subcontracting. Thus, there is no contractual relationship between the Commission and the complainant.

CESD Communautaire submitted two invoices relating to the work carried out by the complainant. The Commission received the first invoice on 23 May 2003 and paid CESD Communautaire on 4 December 2003. The amount referring to the complainant was 8 560 €. The payment was made late and CESD Communautaire has therefore initiated a court case against the Commission, claiming interest. However, this does not concern the complainant directly, since the Commission has no direct contractual relationship with him.

The second invoice arrived on 14 August 2003 and CESD Communautaire was paid on 5 January 2004. The amount referring to the complainant was 880 €. The reason for the payment being made only in January 2004 was that CESD Communautaire did not submit the technical report for the period 1 May 2003 to 24 July 2003 until 10 November 2003. The technical report was approved on 19 November 2003 and the contractual period of 60 days for payment started on 20 November 2003. Accordingly, this payment was made well within the time limit set out in the Commission's contract with CESD Communautaire.

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

By letter received on 17 March 2004, the complainant informed the Ombudsman that he has now received the remainder of the funds owed to him. He thanked the Ombudsman and his staff for their help in bringing the matter to a satisfactory conclusion.

## THE DECISION

### **1 Alleged non-payment for work carried out**

1.1 The complaint concerns alleged non-payment for work carried out on behalf of the Statistical Office of the European Communities (Eurostat). According to the complainant, Eurostat asked him to participate in a project called "Global Assessment of the Russian Statistical System". The work was to be carried out under a contract with an organisation, CESD Communautaire, which



in turn had a contract with the Commission. In substance, the complainant claims that the Commission should make funds available to Eurostat so that CESD Communautaire can pay him for the work he has carried out on behalf of Eurostat.

1.2 The Commission underlines that there is no contractual relationship between it and the complainant. CESD Communautaire submitted two invoices to the Commission relating to the work carried out by the complainant. Both invoices have been paid to CESD Communautaire. However, one of the invoices was paid late.

1.3 On the same day as the Ombudsman received the Commission's opinion, the complainant informed the Ombudsman that he has now received the remainder of the funds owed to him. The complainant considers that the matter has been brought to a satisfactory conclusion.

1.4 In view of the above, the Ombudsman considers that the Commission appears to have taken adequate steps to settle the complaint and has thereby satisfied the complainant.

## **2 Conclusion**

It appears from the Commission's opinion and the complainant's observations that the Commission has taken steps to settle the matter and has thereby satisfied the complainant. The Ombudsman therefore closes the case.

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS