

## **Decision of the European Ombudsman on complaint 220/2004/GG against the European Anti-Fraud Office**

Decision

**Case 220/2004/GG - Opened on 26/01/2004 - Decision on 02/06/2004**

Strasbourg, 2 June 2004

Dear Ms S.,

On 2 January 2004, you made a complaint to the European Ombudsman which was directed at both the European Commission and the European Anti-Fraud Office (OLAF). I decided to register the complaint against the Commission (101/2004/GG) and the complaint against OLAF (220/2004/GG) under separate references.

Your complaint against OLAF concerns OLAF's handling of a request for access to documents that you submitted on 16 October 2003.

On 26 January 2004, I forwarded the complaint to the Director-General of OLAF.

On 9 February 2004, you provided me with further information in relation to your case which I forwarded to OLAF on 20 February 2004.

On 6 May 2004, I received the English original of OLAF's opinion. Before I could write to OLAF in order to ask for a translation into German, I received your letter of 7 May 2004 in which you informed me that the complaint had been answered to your satisfaction.

I am writing now to let you know the results of the inquiries that have been made. A copy of OLAF's opinion is enclosed for your information.

### **THE COMPLAINT**

The present complaint concerns a request for access to documents which was made by the complainant, a Commission official, in the context of proceedings that have given rise to a complaint against the European Commission (101/2004/GG) that is presently pending before the Ombudsman.

On 20 September 2003, the complainant wrote to the Secretariat-General of the Commission in



order to request access to a number of documents which were held by the European Anti-Fraud Office (OLAF) and by certain services of the Commission. In the absence of a reply, the complainant sent the same request again on 16 October 2003, marking it as a confirmatory application.

By letter of 22 October 2003, the Commission's Secretariat-General informed the complainant that her letter of 20 September 2003 did not appear to have reached it and that it would therefore consider her confirmatory application (which had been registered on 22 October 2003) as the request for access to be dealt with within 15 working days.

In a letter dated 13 November 2003, the Commission's Directorate-General Administration and Personnel replied to the request for access in so far as it concerned documents held by the Commission. In the same letter, the Commission informed the complainant that she would receive a separate reply from OLAF in so far as access to documents held by OLAF was concerned.

In a note dated 10 December 2003, the Commission's Secretariat-General informed the complainant that OLAF had replied to her request for access on 17 November 2003.

In her complaint to the Ombudsman lodged in January 2004, the complainant made the following allegations:

(1) OLAF wrongly failed to grant access to documents requested by her

(2) OLAF failed to handle the original request for access of 16 October 2003 in time

She submitted the following claims:

(1) The documents requested should be released, or OLAF should explain that some of them do not exist

(2) If this should not be possible, the Ombudsman, his staff or members of the European Parliament should inspect the documents

## **THE INQUIRY**

### **OLAF's opinion**

In its opinion, OLAF pointed out that it had replied to the complainant's request of 16 October 2003 on 17 November 2003. OLAF submitted that it had supplied the complainant with copies of three documents which corresponded to four items on the list submitted by her (nos. 1, 2, 6 and 7) and that it had explained that request no. 10 was not clear. As to the other requests (nos. 3, 4, 5, 8 and 9), the reply had stated that the requested documents did not exist.

OLAF noted that it had replied to the complainant's request (which was received on 22 October 2003) on 17 November 2003, i.e. three working days after the deadline had expired. It explained



that this slight delay was due to the fact that the person who had been in charge of the matter at OLAF had just been appointed to another post and had had a number of unforeseen matters to deal with. OLAF accepted, however, that it would have been better if it had informed the complainant that an extension of the deadline would be necessary.

OLAF noted that it had sent a copy of its reply of 17 November 2003 to the complainant in the meantime.

**The complainant's letter of 7 May 2004**

On 7 May 2004, the complainant informed the Ombudsman that on 20 April 2004 OLAF had sent her a copy of its reply of 17 November 2003. She expressed the view that the present complaint had thus been answered to her satisfaction and thanked the Ombudsman for this result.

## **THE DECISION**

### **1 Failure to grant access to documents**

1.1 By letter of 16 October 2003 the complainant, a Commission official, asked for access to certain documents held by the European Anti-Fraud Office (OLAF). In her complaint to the Ombudsman lodged in January 2004, she alleged that OLAF had failed to grant access and had failed to deal with her request in time.

1.2 In its opinion, OLAF informed the Ombudsman that it had dealt with the complainant's request by letter of 17 November 2003 and that a copy of this letter had been sent to the complainant in the meantime. OLAF accepted that there had been a slight delay in dealing with this request and that it would have been better if it had informed the complainant that an extension of the deadline would be necessary.

1.3 In a letter sent on 7 May 2004, the complainant expressed the view that the present complaint had been answered to her satisfaction and thanked the Ombudsman for this result.

### **2 Conclusion**

It appears from OLAF's comments and the complainant's letter of 7 May 2004 that OLAF has taken steps to settle the matter and has thereby satisfied the complainant. The Ombudsman therefore closes the case.

The Director-General of OLAF will also be informed of this decision.

Yours sincerely,

P. Nikiforos DIAMANDOUROS