

Decision of the European Ombudsman on complaint 928/2004/GG against the European Parliament

Decision

Case 928/2004/GG - Opened on 31/03/2004 - Decision on 13/09/2004

Strasbourg, 13 September 2004

Dear Mr G.,

On 25 March 2004, Mrs Christa Kläß MEP forwarded to me a complaint that you wished to submit against the European Parliament. The complaint concerned Parliament's alleged failure to provide you with translations into German of calls for tenders. On 28 March 2004, and at my services' request, you submitted copies of the relevant documents to me.

On 31 March 2004, I forwarded the complaint to the President of the European Parliament. The European Parliament sent its opinion on 24 May 2004 and I forwarded it to you on 2 June 2004 with an invitation to make observations by 15 July 2004 at the latest. No such observations were received from you by that date.

On the occasion of a telephone conversation with my services on 23 August 2004 you pointed out that you had sent observations on Parliament's opinion by fax. These observations do not appear to have reached me. You also stressed that you were not satisfied by Parliament's opinion.

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

THE COMPLAINT

The complainant, a German craftsman, is active as an interior decorator. His firm's name figures on a list of persons interested in carrying out work for the EU in Luxembourg.

On 3 March 2004, the Buildings Service of the European Parliament's Directorate-General Administration sent a call for tenders ("Batilux 2004/016") to the complainant and to other interested persons. The work to be carried out concerned the replacement of three carpets in a Parliament building in Luxembourg. Offers were requested for 29 March 2004. In a further letter dated 18 March 2004, Parliament informed the complainant and the other interested parties that there would be no obligatory visit of the venue as mentioned in the call for tenders.



All the documents were drafted in French. The complainant alleged that despite several complaints, he did not receive a translation into German. According to the complainant, similar problems had arisen in previous cases.

The complainant thereupon turned to Mrs Christa Klaß MEP. On 25 March 2004, Mrs Klaß forwarded the case to the Ombudsman and asked him to deal with it.

THE INQUIRY

The European Parliament's opinion

In its opinion, the European Parliament made the following comments:

The relevant contract was one of small value (less than EUR 13 800) which could, on the basis of the rules in force, have been awarded by way of a negotiated procedure with at least three bidders. In such cases, Parliament's Buildings Service used a simplified procedure in order to obtain quotes which was normally conducted in one of the languages used in the relevant location. Given that the contract at issue in the present case concerned Luxembourg, the documents were prepared in French. This did not mean that the use of other languages was excluded. However, a translation was only prepared upon request.

If translations had to be prepared for all the languages that could possibly be requested, administrative costs might be driven to levels that would not be proportionate to the value of the contract.

Although the rules in force allowed the Buildings Service in such cases to address invitations to bid to a minimum of three candidates of its own choice, the request was usually sent to all the candidates that figured on its list of persons interested in carrying out work of that kind. The relevant query had therefore been sent to some 10 companies, including the complainant's. The complainant's firm had not reacted to the letter that had been sent on 3 March 2004.

On 18 March 2004, a further letter concerning the invitation to bid had been sent out. On 20 March 2004, a copy of this second letter addressed to the complainant's firm had been received by the Buildings Service. This copy had not been accompanied by any other letter and had only contained a completely illegible manuscript note. Assuming that this fax had been transmitted by mistake, the Buildings Service had filed it without reacting to it.

If a legible fax had been sent or if a simple request by telephone had been made to that effect, the complainant's firm would of course have been provided with a translation into German.

It should be noted that the present or similar requests for quotes had also been addressed to other German companies and that the procedure that was applied had not resulted in any problems.

Given that no contract had yet been awarded in the present case and that the nature of the



procedure allowed Parliament to accept offers, a translation of the relevant documents into German had been prepared after the Ombudsman's letter had been received. These documents would be forwarded to the complainant's firm to allow it to make an offer.

The complainant's observations

The Ombudsman forwarded a copy of Parliament's opinion to the complainant for his observations. Given that no such observations had been received by the time that had been set for this purpose (15 July 2004), the Ombudsman's services contacted the complainant by telephone on 23 August 2004.

On the occasion of this telephone conversation, the complainant pointed out that he had sent observations to the Ombudsman by fax. However, it appeared that these observations had not reached the Ombudsman's office. The complainant noted that he no longer possessed the original of his observations. He suggested that the case should be closed. The complainant stressed, however, that he had not been satisfied by Parliament's opinion. According to him, the German translation that he had received from Parliament contained the same errors as the French original and the amount of information that had been requested of potential bidders had been disproportionate.

THE DECISION

1 Failure to provide translation into German of calls for tender

1.1 The complainant, a German craftsman, is active as an interior decorator. His company's name figures on a list of persons interested in carrying out work for the EU in Luxembourg. In his complaint to the Ombudsman that was forwarded by a Member of the European Parliament, the complainant alleged that despite his complaints the European Parliament had failed to provide him with a translation into German of calls for tenders, most recently of the call for tenders "Batilux 2004/016".

1.2 In its opinion, the European Parliament submitted that the relevant contract was one of small value (less than EUR 13 800) which could, on the basis of the rules in force, have been awarded by way of a negotiated procedure with at least three bidders. According to Parliament, its Buildings Service used a simplified procedure in such cases in order to obtain quotes which was normally conducted in one of the languages used in the relevant location. Given that the contract at issue in the present case concerned Luxembourg, the documents had been prepared in French. Parliament pointed out that this did not mean that the use of other languages was excluded. However, a translation was only prepared upon request. If translations had to be prepared for all the languages that could possibly be requested, administrative costs might be driven to levels that would not be proportionate to the value of the contract. Parliament noted that although the rules in force allowed its Buildings Service in such cases to address invitations to bid to a minimum of three candidates of its own choice, the request was usually sent to all the candidates that figured on a list of persons interested in carrying out work of that kind. It added that the call for tenders "Batilux 2004/016" had therefore been sent to some 10 firms, including the complainant's. The European Parliament explained that the complainant's firm would of course have been provided with a translation into German if a request to that effect had been received. According to Parliament, however, it had only



received a copy of a letter it had itself addressed to the complainant's firm that only contained a completely illegible manuscript note. The European Parliament noted that a translation of the relevant documents into German had been prepared after the Ombudsman's letter had been received and that this translation would be forwarded to the complainant's firm to allow it to make an offer.

1.3 Parliament's opinion was forwarded to the complainant for his observations. However, no written observations were received from the complainant by the date set for this purpose (15 July 2004). On the occasion of a telephone conversation with the Ombudsman's services on 23 August 2004, the complainant explained that he had sent observations to the Ombudsman by fax. However, it appeared that these observations had not reached the Ombudsman's office. The complainant noted that he no longer possessed the original of his observations. He suggested that the case should be closed. The complainant stressed, however, that he had not been satisfied by Parliament's opinion. According to him, the German translation that he had received from Parliament contained the same errors as the French original and the amount of information that had been requested of potential bidders had been disproportionate.

1.4 In his complaint to the Ombudsman, the complainant had alleged that Parliament had failed to provide him with translations of certain documents. In his oral observations, the complainant also criticised the quality of the call for tenders and the demands that the latter put on potential bidders. However, no specific allegation was made in this regard. On the contrary, the complainant asked the Ombudsman to close the case. These further issues will therefore not be dealt with in the present inquiry. However, the complainant is free to submit a new complaint concerning these issues to the Ombudsman.

1.5 As regards the alleged failure to provide a translation into German of the call for tenders "Batilux 2004/016", the Ombudsman notes that the European Parliament refers to the need to limit administrative costs in order to justify the decision of the Buildings Service of the European Parliament to prepare and distribute the relevant documents initially only in French. This is a valid consideration, provided that the rights of persons who are potentially interested in carrying out the relevant work but who do not understand French are safeguarded in an appropriate way. The Ombudsman notes that Parliament has explained that its Buildings Service would have been ready to provide a translation of the relevant into other languages upon request. From the documents available to the Ombudsman, it does not appear that such a request was made or was clearly brought to the attention of Parliament's Buildings Service. Parliament has provided a copy of the fax that it received from the complainant. An inspection of this document shows that the manuscript note is indeed illegible. It should be noted that the initial letter sent by the Buildings Service contained not only a fax number, but also the name of the official to whom inquiries could be addressed and both his telephone number and e-mail address. The complainant does not appear to have tried to use these possibilities to request a translation of the relevant documents into German. The Ombudsman further notes that Parliament has provided the complainant's firm with a translation of the relevant documents into German after having received the complaint forwarded to it by the Ombudsman in order to allow it to make an offer.



1.6 In his complaint, the complainant implies that similar problems have arisen in other cases in the past. However, the complainant has not provided more specific information that would allow the Ombudsman to examine these cases.

2 Conclusion

On the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Parliament. The Ombudsman therefore closes the case.

The President of the European Parliament and the Member of the European Parliament who forwarded the complaint to the Ombudsman will also be informed of this decision.

Yours sincerely,

P. Nikiforos DIAMANDOUROS