

Decision of the European Ombudsman on complaint 1001/2004/GG against the European Commission

Decision

Case 1001/2004/GG - Opened on 14/04/2004 - Decision on 13/09/2004

Strasbourg, 13 September 2004

Dear Mr R.,

On 1 April 2004, you submitted, acting on behalf of the city of Berching, a complaint to the European Ombudsman against the European Commission. This complaint concerned information regarding the possibility to apply for grants under the town-twinning programme that had been published by the Commission and that you considered to be misleading.

On 14 April 2004, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 23 June 2004. I forwarded it to you on 30 June 2004 with an invitation to make observations, if you so wished, by 31 July 2004 at the latest. No observations appear to have been received from you.

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

THE COMPLAINT

The complainant, a Bavarian city, planned to hold a meeting from 20 until 23 May 2004 which was to be attended, among others, by guests from the European towns with which the city is twinned. In order to finance this project, the complainant intended to apply for an EU grant for this event. When checking the official website of the Commission in November 2003, the complainant found a notice according to which the relevant rules were being reviewed at the time. The notice pointed out that a new call for proposals would be published later and that the programme would only start on 1 April 2004.

The complainant understood this information as meaning that applications could only be submitted as from 1 April 2004.

However, when contacting the Commission by telephone in March 2004, the complainant discovered that the deadline for submitting applications as regards its proposed project (which had been set at 16 January 2004 in the call for proposals) had already expired. According to the



complainant, it further found that the German version of the text it had consulted on the Commission's website in November 2003 differed from other language versions which all pointed out that the call for proposals would still be published in 2003.

The complainant submitted that the persons it contacted at the Commission had confirmed that the German version of the website had been misleading but refused to accept a belated application as a matter of principle.

In its complaint to the Ombudsman, the complainant in substance alleged that it had been misled by the information regarding the possibility to apply for grants under the town-twinning programme that had been published by the Commission on its website. The complainant claimed that the Commission should remedy the mistake that had occurred and accept its application.

THE INQUIRY

The Commission's opinion

In its opinion, the Commission made the following comments:

The relevant text had been published on its website in October 2003 in order to inform potential applicants that the call for proposals for actions in 2004 would be published later and that it would only cover events starting after 1 April 2004. In November 2003, this text had been replaced by the call for proposals (DG EAC 64/03, also published in OJ 2003 no. C 283, p. 21) and by the relevant application forms for 2004.

The paragraph to which the complainant referred had been published in 11 languages. The version in the original language (English) was worded as follows:

"As the timetable for the inter-institutional decision-making process is yet to be fully confirmed, the call for proposals for Town Twinning actions in 2004 will be published later in autumn 2003. Consequently the calendar of the 2004 call for proposals has been adapted: the first phase will start on *1 April 2004*, thus leaving applicants enough time to prepare their demands and allowing information on the selection results in due time."

The German translation was worded as follows:

"Da der Zeitplan der interinstitutionellen Entscheidungsbildung noch nicht endgültig festgelegt ist, wird der Aufruf zur Einreichung von Vorschlägen 2004 etwas später erscheinen. Folglich sind auch die Termine im Aufruf angepasst: in 2004 fängt das Programm erst am *1. April* an. Somit werden die Antragsteller genügend Zeit haben, um ihre Projekte vorzubereiten und wird es ebenfalls möglich sein, sie rechtzeitig über die Auswahlresultate zu informieren."

It was regrettable that this message had led to misinterpretation by the complainant, although no other complaints of this nature had been registered. However, the text had not implied that the first deadline for the introduction of applications was 1 April 2004, and the call for proposals



had been very precise on the dates for submission of applications.

The complainant's claim that the Commission should grant its application could not be accepted. The Commission was bound to apply the rules concerning the presentation of applications as published in the call for proposals DG EAC 64/03 in order to respect the internal procedures and to guarantee transparent and equal treatment of all applications. However, the complainant was invited to participate in the next call for proposals concerning support for town-twinning events in 2005. The complainant would be informed individually of the date of publication of this call for proposals.

The complainant's observations

No observations were received from the complainant.

THE DECISION

1 Allegedly misleading information on town-twinning programme

1.1 The complainant, a Bavarian city, planned to hold a meeting from 20 until 23 May 2004 which was to be attended, among others, by guests from the European towns with which the city is twinned. In order to finance this project, the complainant intended to apply for an EU grant for this event. When checking the official website of the Commission in November 2003, the complainant found a notice according to which the relevant rules were being reviewed at the time. The notice pointed out that a new call for proposals would be published later and that the programme would only start on 1 April 2004. The complainant understood this information as meaning that applications could only be submitted as from 1 April 2004. However, when contacting the Commission by telephone in March 2004, the complainant discovered that the deadline for submitting applications as regards its proposed project (which had been set at 16 January 2004 in the call for proposals) had already expired. In its complaint to the Ombudsman, the complainant in substance alleged that it had been misled by the information regarding the possibility to apply for grants under the town-twinning programme that had been published by the Commission on its website.

1.2 In its opinion, the Commission explained that the relevant text had been published on its website in October 2003 in order to inform potential applicants that the call for proposals for actions in 2004 would be published later and that it would only cover events starting after 1 April 2004. In November 2003, this text had been replaced by the call for proposals (DG EAC 64/03, also published in OJ 2003 no. C 283, p. 21) and by the relevant application forms for 2004. The Commission regretted that the relevant message had led to misinterpretation by the complainant but insisted that the text had not implied that the first deadline for the introduction of applications was 1 April 2004.

1.3 It is good administrative practice to ensure that texts published by Community institutions and bodies with a view to informing citizens are complete and not misleading. The complainant submitted that it understood the text that was published on the Commission's website in October 2003 as meaning that applications could only be submitted as from 1 April 2004. The Ombudsman considers that that the German version of the relevant text would not appear to exclude such an interpretation, given that it does not mention a date for the submission of



applications but limits itself to stating that the "programme" ("Programm") will only start on 1 April 2004. It should however be noted that applications have to be submitted before a project starts and that the Commission needs a reasonable amount of time to deal with such applications. The calls for proposals for town-twinning actions thus usually require that applications are submitted at least two or three months before the projects for which funding is required take place. If the complainant's interpretation that applications could only be submitted as from 1 April 2004 had been correct, this would effectively have meant that the relevant call for proposals would only have covered projects that were due to take place in the second half of 2004. The complainant's project would thus not even have been eligible for funding. The Ombudsman therefore considers that the interpretation proposed by the complainant is not the obvious or most reasonable one.

1.4 It should be noted, however, that in its complaint, the complainant also pointed to another passage of the relevant text. In the English original version of the relevant text, this passage informed readers that "the call for proposals for Town Twinning actions in 2004 will be published later in autumn 2003". On the basis of this version, it was thus clear that the call for proposals would still be published in 2003 and, more precisely, in the autumn of 2003. The complainant argued that corresponding information was also provided in all the other language versions apart from the German one. The Ombudsman notes that the Commission did not dispute this. In the German version, the above passage is rendered by the words "wird der Aufruf zur Einreichung von Vorschlägen 2004 etwas später erscheinen." The German version thus did not clarify that the call for tenders would be published in 2003. The Ombudsman therefore considers that the Commission was clearly at fault by publishing a German text that omitted important information contained in the English and other language versions. Moreover, the wording of the German version fails to clarify that the year that is indicated ("2004") is linked to the call for proposals. It is therefore not excluded to understand the German version as meaning that the call for proposals "will be published a little later in the year 2004". The Ombudsman considers that it is reasonable to assume that the complainant would have consulted the Commission's website and thus found the new call for proposals before the expiry of the relevant deadline (16 January 2004) if the German version of the relevant text had made it clear that this call for proposals would still be published in 2003.

1.5 In these circumstances, the Ombudsman concludes that the German version of the text published on the Commission's website in October 2003 was indeed misleading. This is an instance of maladministration. A critical remark will be made in this context.

2 The complainant's claim

2.1 The complainant claimed that the Commission should remedy the mistake that had occurred and accept its application.

2.2 The Commission submitted that this claim could not be accepted. It pointed out that it was bound to apply the rules concerning the presentation of applications as published in the call for proposals DG EAC 64/03 in order to respect the internal procedures and to guarantee transparent and equal treatment of all applications. However, the complainant was invited to participate in the next call for proposals concerning support for town-twinning events in 2005.



2.3 The Ombudsman notes that in its call for proposals, the Commission informed potential applicants that applications for grants had to be submitted by 16 January 2004 in so far as actions that were to take place between 16 May and 15 June 2004 were concerned. This deadline had thus long expired when the complainant turned to the Commission in March 2004 and to the Ombudsman in April 2004. The Ombudsman considers that the Commission's position according to which it was bound by this deadline and thus unable to consider the complainant's belated application is therefore reasonable.

2.4 In these circumstances, there appears to be no maladministration as regards the Commission's refusal to accept the complainant's claim. It may be useful to add that, in the Ombudsman's view, it cannot be excluded that the complainant could ask for compensation in a case like the present one. However, no such claim has been made in the present case.

3 Conclusion

On the basis of the Ombudsman's inquiries into this complaint, it is necessary to make the following critical remark:

It is good administrative practice to ensure that texts published by Community institutions and bodies with a view to informing citizens are complete and not misleading. In a text published on its website in October 2003, the Commission announced that "the call for proposals for Town Twinning actions in 2004 will be published later in autumn 2003". However, the German version of this text failed to refer to the fact that the publication would be made in the autumn of 2003 and could be understood as meaning that the call for proposals would be published "a little later in the year 2004". The German version was thus incomplete and misleading. This is an instance of maladministration.

Given that the deadline for applications has long passed as regards the complainant's project and that the complainant has not made any claim for compensation, it is not appropriate to pursue a friendly settlement of the matter. The Ombudsman therefore closes the case.

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS