

Decision of the European Ombudsman on complaint 1095/2004/(AJ)TN against the European Commission

Decision

Case 1095/2004/(AJ)TN - Opened on 10/06/2004 - Decision on 11/04/2005

Strasbourg, 11 April 2005

Dear Mr K.,

On 13 April 2004, you made a complaint to the European Ombudsman concerning the European Commission's handling and financing of the "Infopark Project".

On 10 June 2004, I forwarded the complaint to the President of the Commission. The Commission sent its opinion on 17 August 2004 and I forwarded it to you with an invitation to make observations, if you so wished. 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

According to the complainant, the relevant facts are, in summary, the following:

The complainant is the Vice-President of the Portuguese Parkinson's Disease Association (hereafter "the Association"). During the four years preceding the complaint to the Ombudsman, the Association participated in a project called Infopark, the co-ordinator of which was the University of Wales, College of Medicine, Cardiff (hereafter "the co-ordinator"). According to the complainant, the Commission assured the members of the Infopark Project that it would finance the project, which would therefore not cost the members anything. However, the project partners had in fact to finance the project themselves, since it seems that the Commission finances projects in arrears, i.e. "you spend it and then claim it back". This was problematic for the Association, which did not have any funds to spend to begin with. The Association therefore had to draw up cost reports for money spent, although it had not spent anything. For instance, their junior researcher worked full time for nothing during two years and, at the time of submitting the complaint to the Ombudsman, their translator had only been paid for half her work done in 2003 and had received nothing for her work done in 2004. When carrying out the mid-term review of the project, the Commission praised the Association for its effort and the Association was left with a strong indication that it would be getting more financial help.



However, the Commission has provided no further financial contribution to the project. In view of the way in which the Commission treated the project partners, the complainant will neither take part in, nor recommend anyone else to take part in, another project funded by the Commission.

The complainant alleges that the Commission has failed to handle and finance the Infopark Project adequately and that it has shown no interest in the people involved.

THE INQUIRY

The Commission's opinion

In its opinion, the Commission makes, in summary, the following comments:

The Infopark Project was a project on "Information, health & social needs of older, disabled people (Parkinson's disease) and their carers", which started on 1 March 2001 and ended on 31 May 2004.

It was never brought to the Commission's attention that the project suffered from cash flow problems. Neither the co-ordinator, nor the complainant raised the issue with the officials in charge of the project. The activity report submitted to the Commission in May 2004 did not mention that the Association had experienced problems.

The Commission has made a thorough examination of the project file, concluding that all the funding procedures provided for in the contract were complied with. The advance payment and the two subsequent interim payments were issued within the deadline provided for under Article 3.1 of the General Conditions of the contract. All the contractors involved worked on the Additional-Cost Model, meaning that the Commission only took into account direct costs additional to the contractor's recurring costs. A flat rate was used for indirect costs. Like the vast majority of research projects funded by the Commission, the Infopark Project was cost shared. This means that the Commission covered 100% of the additional costs of the project, whereas the contractors were required to provide the counterpart funding for their normal recurring costs. The asserted promise that the Association would not have to bear any costs therefore did not come from the Commission.

An advance payment of 40% of the Association's expected costs was made to the co-ordinator on 14 March 2001, i.e. two weeks after the start of the project. This advance payment provided sufficient means to cover the Association's expected expenditure during the first 12 months of the project. It is therefore not true that costs had to be incurred before they were reimbursed. If the advance payment was not correctly transferred to the Association by the co-ordinator, this should have been brought up with the co-ordinator.

In September 2002, an external expert appointed by the Commission carried out a mid-term review of the project. The expert produced a mid-term review report which was submitted to the Commission project officer, who considered the report to be positive. The project officer's conclusion was communicated to the co-ordinator, the duty of which was to inform the Association of the outcome of the mid-term review.



On 5 May 2004, the Commission received the cost statements relating to the third year of the project implementation. By letter of 29 July 2004, the Commission informed the co-ordinator that the payment procedure had been initiated, providing a detailed analysis of the accepted costs for the period in question. At the time of submitting the opinion to the Ombudsman, the Commission had not yet received the cost statements relating to the last three months of the project implementation.

Considering the high quality of work carried out by the Infopark Project consortium, the Commission regrets that the complainant suffered difficulties. However, in the absence of any official request regarding the matter, no measures could be undertaken to overcome the difficulties.

The Ombudsman invited the complainants to submit observations on the Commission's opinion. No observations appear to have been submitted by the complainants.

THE DECISION

1 The allegedly inadequate handling and financing of the project

1.1 The complaint concerns the European Commission's handling and financing of the "Infopark Project", in which the Portuguese Parkinson's Disease Association participated. According to the complainant, who is the Vice-President of the Association, the Commission assured the project members that it would finance the project, which would therefore not cost the members anything. However, the project partners had in fact to finance the project themselves, since it seems that the Commission finances projects in arrears, i.e. "you spend it and then claim it back". This was problematic for the Association, which did not have any funds to spend to begin with. The Association therefore had to draw up cost reports for money spent, although it had not spent anything since some of its staff had had to work for free. When carrying out the mid-term review of the project, the Commission left the Association with a strong indication that it would be getting more financial help. However, the Commission provided no further financial contribution to the project.

The complainant alleges that the Commission has failed to handle and finance the Infopark Project adequately and that it has shown no interest in the people involved.

1.2 The Commission argues that it was never brought to its attention that the project suffered from cash flow problems. All the funding procedures provided for in the contract were complied with. The advance payment and the two subsequent interim payments were issued within the deadline provided for under Article 3.1 of the General Conditions of the contract. Like the vast majority of research projects funded by the Commission, the Infopark Project was cost shared. This means that the Commission covered 100% of the additional costs of the project, whereas the contractors were required to provide the counterpart funding for their normal recurring costs. The asserted promise that the Association would not have to bear any costs therefore did not come from the Commission. An advance payment providing sufficient means to cover the Association's expected expenditure during the first 12 months of the project was made to the



co-ordinator two weeks after the start of the project. It is therefore not true that costs had to be incurred before they were reimbursed.

An external expert appointed by the Commission carried out the mid-term review of the project. The Commission project officer considered the mid-term review report to be positive. The project officer's conclusion was communicated to the co-ordinator, the duty of which was to inform the Association of the outcome of the mid-term review. Considering the high quality of work carried out by the Infopark Project consortium, the Commission regrets that the complainant suffered difficulties. However, in the absence of any official request regarding the matter, no measures could be undertaken to overcome the difficulties.

1.3 The Ombudsman notes that, in response to the complainant's allegation concerning the handling and financing of the Infopark Project, the Commission argues that it handled and financed the project according to the terms of the contract and that the problems from which the project allegedly suffered were never brought to its attention. The Ombudsman considers that the Commission's account of its handling and financing of the project, which furthermore has not been questioned by the complainant, appears reasonable and the Ombudsman has found no evidence to put in question the Commission's account of the circumstances relating to the Infopark Project. As regards in particular the complainant's argument that the Commission assured the project members that the project would not cost them anything, the Ombudsman notes that the complainant has provided no evidence to support this argument. The Ombudsman further notes that the argument in question was rejected by the Commission, which explained that the Infopark Project, like the vast majority of research projects funded by the Commission, was cost shared. The Ombudsman considers reasonable the Commission's explanation in this regard.

1.4 The Ombudsman further considers that whilst those who receive funding from the Commission have an obligation to acquaint themselves with the terms of funding, the Commission has a corresponding duty to inform recipients of funding about the applicable terms. The Ombudsman also considers that the Commission should take special care to provide adequate information to non-profit organisations. In the present case, the Ombudsman has found no evidence to suggest that the Commission has failed in its duty in this regard.

1.5 In view of the above, the Ombudsman has found no evidence of maladministration by the Commission regarding its handling and financing of the Infopark Project.

2 Conclusion

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

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

Yours sincerely,



P. Nikiforos DIAMANDOUROS