

Decision of the European Ombudsman on complaint 1348/2004/TN against the European Commission

Decision

Case 1348/2004/TN - Opened on 19/05/2004 - Decision on 26/10/2004

Strasbourg, 26 October 2004

Dear Mr H.,

On 6 May 2004, you made a complaint to the European Ombudsman against the European Commission concerning alleged non payment for work carried out by you in relation to a project called "Technical and Economic Study of Oil transit Pipeline from Constanta (Romania) to Omisalj (Croatia)".

In your complaint, you alleged that the Commission has unreasonably refused to pay its contractor in respect of your extra three days of work under the project.

On 19 May 2004, I forwarded your complaint to the President of the Commission. The Commission sent its opinion on 6 September 2004. In its opinion, the Commission informed the Ombudsman that you had introduced a separate legal action before a British court concerning the same facts as those being subject to the Ombudsman's inquiry. The Commission also explained that it had asked the British court to declare the case inadmissible.

I forwarded the Commission's opinion to you, informing you of the following:

Article 195 of the Treaty establishing the European Community provides that:

"[T]he Ombudsman shall conduct inquiries for which he finds grounds, ..., except where the alleged facts are or have been the subject of legal proceedings."

Furthermore, Article 2 (7) of the Statute of the European Ombudsman stipulates that:

"When the Ombudsman, because of legal proceedings in progress or concluded concerning facts which have been put forward, has to declare a complaint inadmissible or terminate consideration of it, the outcome of any inquiries he has carried out up to that point shall be filed without further action."

By letter of 30 September 2004, you were invited to confirm that you had introduced the legal



action mentioned in the Commission's opinion. You were informed that if this were the case, it seemed appropriate for the Ombudsman to terminate his inquiry into the present case. You were also informed that if your action in the British court were to be declared inadmissible, you could renew your complaint to the Ombudsman, who would pick up his inquiry at the point where the present inquiry was concluded.

By letter of 19 October 2004, you confirmed that you had introduced the legal action mentioned in the Commission's opinion.

As there thus is a case pending before a British court which concerns the same facts as have been put forward in your complaint to me, I have decided, in accordance with Article 2.7 of the Statute of the European Ombudsman, to terminate the consideration of your complaint and to file the outcome of the inquiries carried out so far without further action.

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS