

Decision of the European Ombudsman on complaint 1808/2004/JMA against the European Commission

Decision

Case 1808/2004/JMA - Opened on 14/09/2004 - Decision on 13/12/2005

The complainant alleged that the Commission had acted improperly in its handling of a call for tenders for the second stage of a R&D programme. This major initiative had been largely funded by the Commission. Given the scope of the programme, it had been divided into three different stages. The first stage of the programme (stage 1) had been awarded to one of the complainant's competitors, consortium Z. In December 2003, the complainant submitted a bid for stage 2 of the programme. Even though he was admitted to the selection procedure and appeared to be the only bidder, since the consortium Z did not get to submit its proposal on time, his bid was excluded following a negative assessment by the evaluators. The complainant took the view that it had been discriminated against, and that the Commission's services had been unduly partial by seeking to favour consortium Z. In support of his allegation, the complainant referred to a telephone conversation between a representative of the consortium Z and the responsible Commission services which took place soon after the deadline for the submission of bids had expired, once it was clear that the consortium Z's bid had not been submitted in due time.

The Commission argued that the complainant's proposal was evaluated in accordance with the official procedures by independent evaluators who concluded that the proposal did not meet the evaluation criteria. In view of these findings, the Commission could not retain the complainant's proposal. In connection with the telephone call made by a representative of the complainant's competitor, once the deadline for the submission of bids had expired, the Commission took the view that it was only a request for information in the course of which no substantive issues were discussed. Given the nature of the issues discussed, the Commission's services were of the view that no telephone log appeared to be necessary.

The Ombudsman noted that, as recognised by the Community courts, the Commission enjoys a broad discretion with regard to the factors to be taken into account for the purpose of deciding to award a contract following an invitation to tender. The Ombudsman pointed out that, in reply to the complainant's request, the Commission offered a detailed explanation of the reasons for which the complainant's bid was not retained. It also enclosed with its opinion, a copy of the evaluation summary report, which contained the evaluators' reasoned assessment of the complainant's proposal. Having reviewed the contents of this summary report, the Ombudsman considered that it provided an adequate statement for the position taken by the institution along



the lines of the legal criteria laid down in the Work Programme.

The Ombudsman indicated that some of the factual aspects of the case, involving the telephone conversation of one of the partners of consortium Z with the Commission's services and that partner's subsequent communications to the other partners had caused the complainant to question the propriety of the Commission's actions. Having carefully reviewed all the available information, the Ombudsman found no evidence of impropriety in that decision. The Ombudsman pointed out, however, that it would have been easier for the Commission to deal with the complainant's concerns in this regard if it had been able to produce a written record of the telephone conversation in question. The Ombudsman therefore addressed a further remark to the Commission in which he suggested that the Commission may wish to review its rules on telephone logs in the framework of a call for tenders, with a view to avoiding similar problems from arising in the future.

Strasbourg, 13 December 2005

Dear Mr X.,

On 9 June 2004, you lodged a complaint with the European Ombudsman against the European Commission on behalf of the firm Y. You describe yourself as the consortium coordinator. Your complaint concerned the Commission's decision not to retain the proposal submitted by Y for the implementation of programme in the area of Research and Development (R&D programme).

On 14 September 2004, I informed the President of the Commission of this complaint and I asked him to submit an opinion. On 7 December 2004, the Commission sent me its opinion, which I forwarded to you with an invitation to make observations. On 10 February 2005, you sent me your observations. By letter dated 20 July 2005, I forwarded your observations to the Commission and announced that my services intended to inspect the Commission's file on the case. On 21 September 2005, my services carried out the inspection. A copy of their report to me concerning the inspection of the file was forwarded to you and to the Commission on 13 October 2005.

I am writing now to let you know the results of the inquiries that have been made. I apologise for the length of time it has taken to deal with the case.

THE COMPLAINT

The complaint was submitted on behalf of a company. The facts of the case according to the complainant are, in summary, as follows:

Complaint 239/2004/JMA

In January 2004, the complainant lodged a previous complaint with the Ombudsman, which was registered under file number 239/2004/JMA. The complainant alleged that the Commission had acted improperly in its handling of a call for tenders for the second stage of a R&D programme. This major initiative had been largely funded by the Commission. Given the scope of the programme, it had been divided into three different stages. The first stage of the programme



(stage 1) had been awarded to one of the complainant's competitors, consortium Z.

The complainant explained that, in December 2003, a bid for stage 2 of the programme was submitted by his firm, on behalf of a group of organisations which included independent experts, small and medium size enterprises, laboratories and universities. Even though the complainant was admitted to the selection procedure and appeared to be the only bidder, its bid was excluded following a negative assessment by the evaluators. The complainant took the view that it had been discriminated against, and that the Commission's services had been unduly partial by seeking to favour consortium Z.

According to the complainant, it had obtained information that, soon after the deadline for the submission of bids had expired, a partner of the consortium Z had telephoned the responsible Commission's services and that, as a result of that conversation, the institution was considering the annulment of stage 2 of the programme in order to merge it with stage 3. At that point, it appeared clear that consortium Z had not been able to submit its proposal for stage 2 in due time. This initiative of the Commission would have provided the complainant's competitor with a new opportunity to put forward a joint bid for stages 2 and 3 of the project. The complainant enclosed with his complaint a copy of an internal e-mail from one of the partners of consortium Z to his other partners, which showed that consortium Z was making the necessary preparations for this eventual course of action.

Since it appeared, on the basis of the available information, that the complaint had not been preceded by the appropriate administrative approaches to the institution concerned, the Ombudsman declared it inadmissible pursuant to Article 2 (4) of the Statute of the European Ombudsman. In this letter, the Ombudsman suggested that the complainant should make the necessary administrative approaches to the Commission, in particular by contacting the responsible Commissioner.

Complaint 1808/2004/JMA

In June 2004, the complainant wrote again to the Ombudsman. The complainant stated that, following the Ombudsman's suggestion, it had written to the Commission in April 2004, requesting a re-appraisal of its proposal. In June 2004, the responsible Director-General replied to the complainant's letter, and explained that, on the basis of the evaluation criteria set out in the guide of the programme, all the evaluators had rated the complainant's proposal below the acceptable thresholds. The complainant was also informed that stages 2 and 3 of the programme were to be merged into a third call to be published in the near future.

On the basis of that information, the complainant restated the allegations made in his previous complaint to the Ombudsman (reference 239/2004/JMA). It underlined that the way in which the evaluators had reviewed some aspects of its proposal, such as those concerning research and development as well as budget distribution, was inadequate. Since these evaluators did not appear to have expertise in a number of relevant areas, they undervalued the usage of the methods and solutions proposed by the complainant.

The complainant noted that the Commission rejected its requests for a re-evaluation of its proposal, despite the complainant having shown that the evaluators did not possess the



necessary qualifications and expertise, and that their assessment had been influenced by factors other than the quality of the proposal itself. It argued that the Commission's reply confirmed the merger of stages 2 and 3 of the programme, and therefore the favouritism shown and comparative advantage given to its main competitor, consortium Z.

Taking into consideration the new evidence, the Ombudsman decided to register the complainant's letter as a new complaint (reference 1808/2004/JMA) and to start an inquiry. The allegations on which the Ombudsman asked the Commission to submit an opinion were the following:

The complainant alleges, in summary, that, (i) the evaluators employed by the Commission for the assessment of the proposals were not technically qualified, and that (ii) their assessment of his bid was not neutral. He therefore claims that his proposal be re-assessed by expert and impartial evaluators.

THE INQUIRY

The Commission's opinion

In its opinion, the Commission first described the background of the case. It explained that the proposal submitted by the complainant concerned stage 2 of an R&D programme. This initiative had been split in three different phases. Stage 1 had already been awarded to consortium Z.

The Commission had received three proposals for stage 2 of the programme, of which only the complainant's proposal met the programme's admissibility criteria. In February 2004, however, following a thorough evaluation of the complainant's proposal, the Commission decided not to accept it, on the grounds that its contents were unsatisfactory. The Commission argued that the evaluation had been carried out in full compliance with the relevant procedures, as reflected in the evaluators' conclusions.

As regards the technical expertise of the evaluators, the Commission explained that the proposal was examined by six independent evaluators selected in accordance with the "Guidelines on proposal evaluation and selection criteria". Copies of all the evaluators' curricula vitae were annexed to the Commission's opinion.

The Commission argued that all evaluators had concluded that the complainant's proposal did not meet the six evaluation criteria defined in the programme's guidelines.

The Commission underlined that the complainant's proposal had been assessed in accordance with the official procedures by independent evaluators with the necessary level of expertise and experience. The score awarded to the proposal was an honest and fair reflection of the quality of the submission. The institution also stressed that the responsible committee, having concluded that the complainant's proposal was not suitable, decided in April 2004 to modify the Work Programme ("the Work Programme") and to merge stages 2 with stage 3. The complainant was formally informed of this decision.



In connection with the bid submitted by consortium Z, the Commission noted that it had been delivered once the deadline had expired. Soon after, its services received a telephone call from one of the partners of consortium Z in order to obtain information on the potential outcome of the selection procedure. He was informed that his proposal had been excluded. In reply to his questions about how the selection procedure could go, the Commission's services explained that, if none of the submissions for stage 2 succeeded, the Commission might consider merging stages 2 and 3 in a future selection procedure. The Commission noted, however, that this statement was hypothetical in nature.

It appears, however, that, following this telephone conversation, a partner of consortium Z subsequently wrote an e-mail to the other consortium members in which he referred to his conversation with the Commission's services. A copy of this e-mail was also sent to the Commission by one of the consortium's members.

The Commission enclosed with its opinion a number of documents, including the evaluation criteria and thresholds published in the Work Programme for stage 2 of the programme, the curricula vitae of the evaluators as well as a copy of the evaluation summary report concerning the complainant's proposal.

The complainant's observations

In his observations, the complainant repeated the allegations made in his complaint.

He pointed out that his complaint not only alleged lack of expertise on the part of the evaluators for the assessment of his proposal, but also the existence of improper actions on the part of the Commission's services intended to favour the complainant's main competitor, consortium Z.

The complainant argued that, in the light of the curricula vitae of the evaluators annexed to the Commission's opinion, it was clear that they lacked the necessary skills to assess a very sophisticated programme such as the one in question. In his view, some of those evaluators had been biased in favour of consortium Z, since they had some relationship with the consortium's members.

The inspection of the file

After carefully examining the Commission's opinion and the complainant's observations, the Ombudsman took note of the fact that a number of uncertainties concerning the factual and legal aspects of the case remained. In the light of these uncertainties, he concluded that it was appropriate to carry out an inspection of some of the materials included in the file. The Ombudsman wrote therefore to the Commission in July 2005 stating that, in accordance with Article 3 (2) 1st indent of the Statute of the European Ombudsman, he considered it necessary for his services to inspect certain documents that should be present in the Commission's file on this case, namely, (i) the assessment of the complainant's bid for stage 2 of the programme; (ii) the note of the telephone discussions held between a Commission official and the representative of consortium Z, following the expiration of the deadline for the submission of tenders for stage 2; and, (iii) the decision to annul stage 2 and to merge it with stage 3.

The inspection took place at the Commission's premises in Brussels in September 2005. The Commission's services produced a number of documents contained in three large files: (1) the



first one contained a series of documents related to the general process for the selection of the proposals submitted to stage 2; (2) the second file included documents pertaining to the evaluation of each of the bids; (3) the materials included in the third file related to stage 3 of the programme. In addition, the Commission's services brought a number of copies of individual documents related to specific aspects of the programme.

The documents contained in the first two files were relevant for the first aspect of the Ombudsman's request, namely the assessment of the complainant's bid. The first file included documents concerning general issues pertaining to the work programme and the second contained documents regarding the evaluation of individual proposals.

As regards the second aspect of the Ombudsman's request concerning the note of the telephone discussions held between a Commission official and the representative of consortium Z, the Commission's services indicated that no written document had been drafted at that time. The institution explained that, in line with the basis of the programme, telephone logs are only prepared when, in the course of the contacts with any of the bidders, substantive issues are being discussed. However, if the telephone conversation only involves a general request for information, no report is deemed necessary.

In the view of the Commission's services, the telephone call by a representative of the complainant's competitor, once the deadline for the submission of bids had expired, was only a request for information in the course of which no substantive issues were discussed. The Commission's services were therefore of the view that no telephone log appeared to be necessary.

As regards the documents concerning the decision to annul stage 2 and to merge it with stage 3 of the programme, the Commission submitted a number of additional materials contained in a third file. From the documents included in this file, it appeared that, in February 2005, the Commission's services decided not to accept any of the proposals submitted to the new call for tenders involving stages 2 and 3 of the programme, and therefore, to annul the selection procedure and to call for a revised procedure. As a result, the Commission devised a new programme for which a formal call for proposals has already been published.

The Ombudsman's services drafted a report to the Ombudsman concerning the inspection of the file, a copy of which was forwarded to both the Commission and the complainant.

THE DECISION

1 Qualifications of the evaluators

1.1 The complainant alleged that the evaluators employed by the Commission for the assessment of the proposals submitted to stage 2 of a R&D programme were not technically qualified. In his observations, the complainant added that, in the light of the evaluators' curricula vitae, which were annexed to the Commission's opinion, they appeared to lack the necessary expertise and experience in several fields covered by the programme.



1.2 The Commission argues that the proposals submitted to stage 2 of the programme were examined by six independent evaluators selected in accordance with the applicable legal rules, namely the "Guidelines on proposal evaluation and selection criteria". In support of its position, the Commission had enclosed with its opinion, the curricula vitae of the evaluators.

The institution underlined that the complainant's proposal had been evaluated fully in accordance with the official procedures by independent evaluators with the necessary level of expertise and experience.

1.3 The Ombudsman notes that the call for tenders at issue was aimed at the selection of proposals for the development of a R&D system. The project was to be funded with Community assistance under the Sixth Framework Programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation for the period 2002-2006. The legal basis of this initiative is to be found in Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006) (1) (Decision 1513/2002"), which set out the activities and priorities of this Framework Programme, as well as its scientific and technological objectives.

One of the thematic priorities singled out by Decision 1513/2002 included the area of the programme in question. Its specific objectives were laid down by the Commission in a General Work Programme.

As regards the (2) participation of enterprises, research centres and universities under the Sixth Framework Programme, the rules were laid down in Regulation (EC) No 2321/2002 of the European Parliament and of the Council of 16 December 2002 concerning the rules for the participation of undertakings, research centres and universities in, and for the dissemination of research results for, the implementation of the European Community Sixth Framework Programme (2002-2006) (3) , ("Regulation 2321/2002") and further developed in a public document entitled "Guidelines on Proposal Evaluation and Selection Procedures" ("the Guidelines").

The Ombudsman notes that the procedure for the appointment of independent evaluators is set out in Article 11.2 (b) and (d) of Regulation 2321/2002 and Section 2.2 of the Guidelines. Accordingly, the Commission appoints independent evaluators on the basis of calls for applications published in the Official Journal, or of specific requests addressed to research institutions. Independent evaluators were expected to have the skills and knowledge appropriate to the areas of activities in which they were asked to assist, as well as a high level of professional experience in a number of scientific areas or activities (4) . Account should also be taken of their abilities to appreciate the challenges and industrial and/or societal dimension of the proposed work.

As for the procedure for the appointment of evaluators, the Ombudsman notes that, as laid



down by the above provisions, the Commission should draw up a list of independent evaluators on the basis of a number of criteria, such as the range of competences; a balance between academic and industrial expertise and users; a reasonable gender balance; a reasonable distribution of geographic origins; and the regular rotation of evaluators. The list of independent evaluators to be used for evaluation sessions has to be decided by the relevant Director. Before the start of their work, all evaluators must sign a declaration of conflicts of interest and confidentiality.

1.4 The Ombudsman has carefully examined all available information, in particular the curricula vitae of the evaluators chosen by the Commission to assess the complainant's proposal. The Ombudsman notes that all the evaluators appear to have a great deal of expertise in the relevant area of the programme, along the lines set out in the Work Programme. They seem to possess skills in a number of relevant areas (...). In addition, all the evaluators appear to be high-ranking individuals from the fields of science and industry with significant experience in research, research policy or research programme management at national or international level.

As the Community courts have held in similar situations in which an institution is called upon to choose the persons to constitute a Selection Board, the appointing authority enjoys a discretionary power to assess the skills of the individuals to be chosen, which can only be questioned if the institution exceeds its legal authority (5) .

The Ombudsman notes that, in the course of his inquiry, no information has been made available which may lead him to believe that the Commission failed to apply the criteria laid down in Article 11.2 (b) and (d) of Regulation 2321/2002 and Section 2.2 of the Guidelines, when it appointed the six evaluators responsible for the assessment of the proposals submitted to stage 2 of the programme.

1.5 As regards procedure, the Ombudsman notes that the Commission described the steps taken by its services for the selection of the independent evaluators in an internal note which was made available in the course of his inspection of the file.

Having reviewed the procedure followed by the Commission for the selection of the evaluators, as described in that note, the Ombudsman finds that it appears to be in accordance with the relevant rules, namely Article 11.2 (b) and (d) of Regulation 2321/2002 and Section 2.2 of the Guidelines.

1.6 On the basis of the findings in points 1.4 and 1.5 above, the Ombudsman has concluded that there appears to be no maladministration as regards this aspect of the case.

2 The Commission's assessment of the complainant's bid

2.1 The complainant alleged that the assessment of his bid carried out by the Commission's evaluators was not neutral. He argued in his observations, that the evaluators were biased since they appeared to be related, for different reasons, to a third company, consortium Z.

The complainant believes that he was discriminated against because, notwithstanding the fact that he had been the only bidder accepted to the selection procedure for stage 2, his bid was



not retained. In his view, the Commission's services were biased in favour of consortium Z, as proved by the Commission's decision to annul the selection procedure for stage 2, and to merge stages 2 and 3, for which a new call for tenders had been made. In support of his allegation, the complainant refers to a telephone conversation between a representative of the consortium Z and the responsible Commission services which took place soon after the deadline for the submission of bids had expired, once it was clear that the consortium Z's bid had not been submitted in due time. The complaint includes a copy of an internal e-mail from one of the partners of consortium Z to his other partners, which showed that consortium Z was making the necessary preparations for this eventual situation.

2.2 The Commission argues that the complainant's proposal was evaluated in accordance with the official procedures by independent evaluators who concluded that the proposal did not meet the evaluation criteria. In view of these findings, the Commission could not retain the complainant's proposal.

In connection with the telephone call made by a representative of the complainant's competitor, once the deadline for the submission of bids had expired, the Commission takes the view that it was only a request for information in the course of which no substantive issues were discussed. Thus, in reply to the representative's questions about the closure of the selection procedure, its services merely referred to the different possibilities which appeared at the time. Given the nature of the issues discussed, the Commission's services were of the view that no telephone log appeared to be necessary.

The institution explains that the committee responsible for the programme, having concluded in March 2004 that the complainant's proposal was not suitable, decided to modify the Programme and to re-open stages 2 and 3 in a new call for tenders. The complainant was formally informed of this decision.

2.3 The Ombudsman notes that the Community courts have consistently held that the Commission enjoys a broad discretion with regard to the factors to be taken into account for the purpose of deciding to award a contract following an invitation to tender (6) .

2.4 The Ombudsman notes that in reply to the complainant's request, the Commission has offered a detailed explanation of the reasons for which the complainant's bid was not retained.

The Ombudsman points out that the Commission enclosed, with its opinion, a copy of the evaluation summary report. The document contained the evaluators' reasoned assessment of the complainant's proposal. The Commission had also annexed a copy of that summary report to the letter sent to the complainant, informing him of the rejection of the proposal.

The Ombudsman notes that the summary report begins with a general introduction of the aims and goals of the complainant's proposal, followed by the evaluators' score in each of the six different criteria laid down in the Work Programme (7) . On the basis of that evaluation, it appears that the complainant's bid did not reach the minimum threshold in any of the six criteria, obtaining a total score of 11 points, well below the minimum mark of 24 points. Each mark was



accompanied by a brief explanation, which was supplemented by an overall comment on the global assessment made by the evaluators. The reasoning provided by the evaluators included references to particular aspects of the complainant's proposal which, in their view, appeared to be inadequate, such as the integration of the programme with the results of stage 1, the explanations on its potential impacts, environmental implications, the science and technology objectives to be achieved, the description of the partners' profiles and their management experience, the approach to risk management, or the perceived lack of a proper mobilisation of resources.

Having reviewed the contents of this summary report, the Ombudsman considers that it appears to provide an adequate statement for the position taken by the institution along the lines of the legal criteria laid down in the Work Programme.

2.5 As regards the alleged lack of objectivity of the evaluators resulting from their relationship with a third party, the Ombudsman points out that, on the basis of the available information, all evaluators signed a declaration to the effect that there was no conflict of interest, at the time of their appointment, in relation to the matter on which they were required to give an opinion.

The Ombudsman notes that no evidence has been brought to his attention in the course of his inquiry, either by the complainant or the Commission, and that nothing was found in the inspection of documents that may lead him to believe that any of the evaluators had any particular relationship with a third party, as a result of which his or her evaluation may have been biased.

2.6 The Ombudsman notes that the Commission has offered a thorough explanation to the complainant of its reasons for its decision, both in a letter to him and in its opinion to the Ombudsman. They include references to particular aspects of the complainant's proposal and its shortcomings from the standpoint of the programme's criteria. These explanations appear to provide an adequate statement of the Commission's reasoning in support of its position.

2.7 The Ombudsman is mindful of the fact that some of the factual aspects of the case, involving the telephone conversation of one of the partners of consortium Z with the Commission's services and that partner's subsequent e-mail to the other partners have caused the complainant to question the propriety of the Commission's decision to cancel stage 2 of the tender procedure and merge it with stage 3.

Having carefully reviewed all the available information, the Ombudsman has found no evidence of impropriety in the decision not to proceed with stage 2 of the programme, or to have a new tender including stages 2 and 3 of the programme. The Ombudsman finds that none of the documents reviewed in the course of his inquiry has revealed a particular attitude or predisposition on the part of the Commission either against the complainant or in favour of any third party. In this context, the Ombudsman considers it particularly relevant that the Commission decided not to retain any of the proposals submitted to the new call for tenders involving stages 2 and 3 of the programme, and therefore to annul the selection procedure.



The Ombudsman notes that it would have been easier for the Commission to deal with the complainant's concerns in this regard if it had been able to produce a written record of the telephone conversation in question. The Ombudsman therefore suggests that the Commission may wish to review its rules on telephone logs in the framework of a call for tenders, with a view to avoiding similar problems from arising in the future. The Ombudsman will address a further remark to the Commission to this effect below.

2.8 In view of the above considerations, the Ombudsman takes the view that the complainant has not provided evidence showing that the Commission misused its powers when carrying out its selection of proposals for stage 2 of the programme.

Accordingly, the Ombudsman has concluded that the Commission acted within the limits of its legal authority. The Ombudsman therefore finds that there is no evidence of maladministration in relation to this aspect of the case.

3 The complainant's request for a re-assessment of his proposal

3.1 The complainant claims that his proposal be re-assessed by expert and impartial evaluators.

3.2 Taking into consideration the above findings, the Ombudsman does not consider it necessary to deal with the complainant's claim.

4 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.

FURTHER REMARK

The Ombudsman is mindful of the fact that some of the factual aspects of the case, involving the telephone conversation of one of the partners of consortium Z with the Commission's services and that partner's subsequent e-mail to the other partners have caused the complainant to question the propriety of the Commission's decision to cancel stage 2 of the tender procedure and merge it with stage 3. The Ombudsman notes that it would have been easier for the Commission to deal with the complainant's concerns in this regard if it had been able to produce a written record of the telephone conversation in question. The Ombudsman therefore suggests that the Commission may wish to review its rules on telephone logs in the framework of a call for tenders, with a view to avoiding similar problems arising in the future.

Yours sincerely,

P. Nikiforos DIAMANDOUROS

(1) OJ 2002 L 232, p. 1.



(2) OJ 2002 L 355, p. 23.

(3) "[R]esearch in the relevant scientific and technological fields; administration, management or evaluation of projects; use of the results of research and technological development projects; technology transfer and innovation; international cooperation in science and technology; development of human resources ". Section 2.2, p. 8, of the Guidelines.

(4) Section 2.2, p. 8, of the Guidelines.

(5) Case T-173/99 *Elkaïm & Mazuel v Commission* [2000] ECR-SC IA-101; II-433, paragraph 70.

(6) Case 56/77 *Agence Européenne d'Interims v Commission* [1978] ECR 2215, paragraph 20; Case T-19/95 *Adia Interim v Commission* [1996] ECR II-321, paragraph 49; Case T-145/98 *ADT Projekt v Commission* [2000] ECR II-387, paragraph 147.

(7) Relevance, potential impact, science & technology excellence, quality of the consortium, quality of the management, and mobilisation of the resources.