



## Decision of the European Ombudsman on complaint 1903/2004/GG against the European Parliament

Decision

**Case 1903/2004/GG - Opened on 30/06/2004 - Decision on 10/12/2004**

Strasbourg, 10 December 2004

Dear Ms D.,

On 20 June 2004, you made a complaint to the European Ombudsman concerning the European Parliament. You alleged that Parliament had failed to check whether there was a general problem as regards incoming mail or the distribution of incoming mail. You further claimed that Parliament should add a fax number or an e-mail address to the standard form for petitions.

On 30 June 2004, I forwarded the complaint to the President of the European Parliament and asked the latter to provide an opinion on your allegation. In a letter sent the same day, I informed you that I was unable to deal with your claim, given that the latter concerned the activity of the Committee on Petitions and thus the political activity of the European Parliament, and not a possible instance of maladministration.

Parliament sent its opinion on 30 September 2004, and I forwarded it to you on 5 October 2004 with an invitation to make observations by 15 November 2004, 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 *Background*

In May 2003, the complainant, a German citizen, submitted a petition concerning the possible risks involved by emissions of mobile telecommunications systems to the European Parliament.

In the absence of a reply, she wrote to Parliament on 12 October 2003 in order to inquire as to why she had not even received an acknowledgement of receipt. She also asked for information about a "Reflexstudie" that the EU had commissioned. In his reply of 30 October 2003, Mr B. from the European Parliament's Members' Activities Division informed the complainant that no petition had been received from her and asked whether the letter of 12 October 2003 should be treated as a petition.

In her reply of 3 November 2003, the complainant asked for her letter of 12 October 2003 to be treated as a petition in case Parliament should be unable to find her earlier petition.



In a further letter of 6 December 2003, the complainant asked why she had still not received an acknowledgement of receipt and informed Parliament that she would turn to the Ombudsman if she should not receive any news by 18 December 2003.

In the absence of such a reply, the complainant turned to the Ombudsman on 21 December 2003, criticising the way in which Parliament treated citizens (complaint 35/2004/GG). She pointed out that she wished to know after all whether her original petition had been found or whether her second petition had been received. The complainant noted that she would be grateful if the Ombudsman could let her have a copy of the "Reflexstudie" if he should be able to do so.

*The Ombudsman's reply*

The European Parliament had failed to reply to the complainant's request for information about the "Reflexstudie" that she submitted in her letter of 12 October 2003. However, the complaint was only directed at Parliament's failure properly to handle the complainant's petition(s), not at the failure to provide information about the study. In these circumstances, the present complaint did not concern maladministration but the activity of the Committee on Petitions and thus the political activity of the European Parliament.

The complaint was thus closed on the basis of Article 2 (2) of the Ombudsman's Statute. However, the Ombudsman's office contacted Mr B. in order to alert him to the problem, and the complainant was informed accordingly in the Ombudsman's reply.

The complainant's attention was further drawn to the possibility to ask for access to the document she was looking for under the rules on public access (Regulation 1049/2001) and to the fact that she could complain to the Ombudsman if such a request should be rejected.

*The complainant's letter of 17 January 2004*

In a further letter of 17 January 2004, the complainant thanked the Ombudsman for his help. She enclosed a copy of a letter she had since received from Parliament. In this letter dated 12 January 2004, Mr B. informed the complainant that after having been informed about the problem by the Ombudsman, he had looked into the matter and found that neither her letter of 3 November 2003 nor that of 6 December 2003 had been received by Parliament.

In the light of this letter, the complainant wondered whether there was a problem concerning Parliament's system of registering and distributing incoming mail and whether the Ombudsman could examine such an instance of maladministration.

She further noted that the letter from the European Parliament's Members' Activities Division contained neither a telephone number nor a fax number. Nor did it show an e-mail address. The complainant submitted that this constituted a further instance of maladministration.

*The Ombudsman's reply*

In his reply, the Ombudsman informed the complainant that if she wished to lodge a complaint concerning these two issues, she first had to make the appropriate approaches to Parliament. The Ombudsman thus informed her that she could raise these issues with the European Parliament and that she could complain to him if she should not receive a satisfactory reply within a reasonable time.

*The present complaint*



On 1 February 2004, the complainant wrote to Parliament by e-mail, asking the latter to check whether there was a general problem regarding incoming mail or the distribution of incoming mail. She also asked the European Parliament to add a fax number or an e-mail address to the standard form for petitions in order to ensure that the relevant department could also be reached by means other than mail.

In her complaint to the Ombudsman that was submitted in late June 2004, the complainant noted that she had not received any reply to her message.

The complainant thus effectively alleged that Parliament had failed to check whether there was a general problem as regards incoming mail or the distribution of incoming mail. She further claimed that Parliament should add a fax number or an e-mail address to the standard form for petitions.

#### THE INQUIRY

In his reply of 30 June 2004, the Ombudsman informed the complainant that he had asked the European Parliament to provide an opinion on her allegation. The Ombudsman pointed out, however, that he was unable to deal with the complainant's claim, given that the latter concerned the activity of the Committee on Petitions and thus the political activity of the European Parliament, and not a possible instance of maladministration. The Ombudsman nevertheless added that he would raise the matter with the new President of the European Parliament once he or she had been elected.

#### **The European Parliament's opinion**

In its opinion, Parliament made the following comments:

All incoming mail was registered in Parliament's mail management database "Adonis". During the period mentioned by the complainant, no dysfunction of the system had occurred and no complaints had been addressed to Parliament by other citizens.

As regards the correspondence mentioned by the complainant, the situation was as follows:

- no record of the complainant's letter of May 2003 had been found in "Adonis";
- the complainant had received a reply, dated 30 October 2003, to her letter of 12 October 2003;
- no record of the complainant's letter of 3 November 2003 had been found in "Adonis";
- no record of the complainant's letter of 6 December 2003 had been found in "Adonis";
- the complainant had received a reply, dated 12 January 2004, to her letter to the Ombudsman of 18 December 2003 that had been forwarded to Parliament for reply;
- the complainant's letter of 17 January 2004 had been registered as a petition under reference no. 90/2004 and the complainant had been duly informed accordingly by letter of 29 January 2004.

#### **The complainant's observations**



No observations were received from the complainant.

**THE DECISION 1 Alleged failure to check whether there was a general problem as regards incoming mail or the distribution of incoming mail**

1.1 The complainant, a German citizen, submitted a petition to the European Parliament in May 2003. In the absence of a reply, she wrote to Parliament again on 12 October 2003. In his reply of 30 October 2003, Mr B. from the European Parliament's Members' Activities Division informed the complainant that no petition had been received from her and asked whether the letter of 12 October 2003 should be treated as a petition. The complainant replied on 3 November 2003. In the absence of a reply, she wrote to Parliament again on 6 December 2003. Given that neither of these letters received a response, she complained to the Ombudsman on 21 December 2003 (complaint 35/2004/GG). Given that this complaint was directed at the alleged failure by Parliament to handle the complainant's petition properly, the Ombudsman informed the complainant, in his reply of 13 January 2004, that he was unable to deal with this complaint. This decision was based on the fact that the complaint did not concern maladministration but the activity of the Committee on Petitions and thus the political activity of the European Parliament. The Ombudsman informed the complainant, however, that he had contacted Parliament's services in order to alert them to the problem. In a letter dated 12 January 2004, Mr B. from the European Parliament's Members' Activities Division thereupon informed the complainant that her letters of 3 November and 6 December 2003 had not reached Parliament. Mr B. expressed his regrets at this situation and asked the complainant to submit a copy of her petition to him. The complainant did so on 17 January 2004. On 29 January 2004, the European Parliament informed the complainant that her letter of 17 January 2004 had been registered as a petition under reference no. 90/2004.

1.2 In a further letter of 17 January 2004, the complainant thanked the Ombudsman for his help. She queried whether there was a problem concerning Parliament's system of registering and distributing incoming mail and whether the Ombudsman could examine such an instance of maladministration. In his reply of 28 January 2004, the Ombudsman confirmed that he could deal with such an allegation, provided that the complainant had made the appropriate prior approaches to Parliament.

1.3 On 20 June 2004, the complainant submitted the present complaint to the Ombudsman. The complainant effectively alleged that Parliament had failed to check whether there was a general problem as regards incoming mail or the distribution of incoming mail. She further claimed that Parliament should add a fax number or an e-mail address to the standard form for petitions. The complainant pointed out that she had addressed an e-mail concerning these issues to Parliament on 1 February 2004 without receiving any reply.

1.4 In his reply of 30 June 2004, the Ombudsman informed the complainant that he had asked the European Parliament to provide an opinion on her allegation. The Ombudsman pointed out, however, that he was unable to deal with the complainant's claim, given that the latter concerned the activity of the Committee on Petitions and thus the political activity of the European Parliament, and not a possible instance of maladministration. The Ombudsman nevertheless added that he would raise the matter with the new President of the European Parliament once he or she had been elected.



1.5 In its opinion, the European Parliament explained that all incoming mail was registered in Parliament's mail management database "Adonis". Parliament submitted that during the period mentioned by the complainant, no dysfunction of the system had occurred and no complaints had been addressed to Parliament by other citizens.

1.6 The Ombudsman finds it strange that three of the five letters that the complainant addressed to Parliament do not appear to have reached the latter. He notes, however, that Parliament has assured him that during the period mentioned by the complainant, no dysfunction of the system had occurred. The Ombudsman furthermore notes that the complainant (who has abstained from making observations) has not submitted any evidence or arguments that would call this statement into doubt. Account should furthermore be taken of the fact that Mr B. from the European Parliament's Members' Activities Division dealt promptly and efficiently with the letters that reached him, either directly or through the Ombudsman himself.

1.7 In these circumstances, the Ombudsman takes the view that the complainant has not established her allegation. The Ombudsman considers it appropriate, however, to make a further remark as regards Parliament's handling of the complainant's e-mail of 1 February 2004.

## **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 will also be informed of this decision.

### **FURTHER REMARKS**

The Ombudsman notes that the complainant submitted her grievances to Parliament in an e-mail sent on 1 February 2004. In her complaint submitted on 20 June 2004, the complainant mentioned that she had not received any reply to this e-mail. Given that the complainant has not made any allegation in this respect, Parliament was not under any legal obligation to comment on this issue in its opinion. The Ombudsman would however have considered it courteous for Parliament to address this aspect of the complainant's case nevertheless.

Parliament's failure to reply to the said e-mail may hint at the existence of a more general problem as regards the European Parliament's handling of e-mails it receives from citizens. It should be noted that there is a pending complaint in which the complainant alleges that Parliament has failed to reply to an e-mail (complaint 2038/2004/GG - Confidential). The Ombudsman will therefore consider whether it is necessary to examine this area more closely, either within the framework of his inquiry into the last-mentioned complaint or through an own-initiative inquiry.

Yours sincerely,



P. Nikiforos DIAMANDOUROS