

Decision of the European Ombudsman on complaint 2210/2004/OV against the Committee of the Regions

Decision

Case 2210/2004/OV - Opened on 22/09/2004 - Decision on 22/11/2004

Strasbourg, 22 November 2004

Dear Mr X.,

On 13 July 2004, you made a complaint to the European Ombudsman against the Committee of the Regions concerning your classification in grade B5, step 4.

On 22 September 2004, I forwarded the complaint to the Secretary-General of the Committee of the Regions. The Committee of the Regions sent its opinion on 21 October 2004 indicating that you had initiated proceedings at the Court of First Instance on 15 July 2004. On 3 November 2004, you had a telephone conversation with my services.

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 as follows:

The complainant was a successful candidate in open competition EUR/B/141/98 (sector "buildings"). By decision of 26 March 2003, the Appointing Authority of the Committee of the Regions classified the complainant from 1 December 2002 onwards in grade B 5, step 4, with seniority in step from 1 January 2002 onwards. This decision was communicated to the complainant on 18 September 2003.

By letter of 15 December 2003, the complainant made an appeal on the basis of Article 90.2 of the Staff Regulations requesting a revision of the said decision, and a higher grading. The complainant referred to Article 31 of the Staff Regulations, to the Decision n° 57/95 of the Committee of the Regions concerning the applicable rules on appointments within the Committee and to his professional experience of 12 years, which needed to be taken in account in the grading.

In a note of 12 April 2004 addressed to the Director of Administration, the Legal Service of the



Committee of the Regions stated that, considering that the complainant demonstrated sufficient professional experience, there was no obstacle, from the legal point of view, to a revision of his grading. By letter of 30 April 2004, the complainant wrote to the Director of Administration, referring to the meeting of 20 April 2004 in which the Director had given his agreement further to the favourable opinion from the Legal Service. The complainant expressed his hope to be classified in the higher grade.

On 13 July 2004, the complainant lodged the present complaint with the Ombudsman. He claimed a revision of his grading in accordance with Decision n° 57/95 and with the opinion from the Legal Service.

THE INQUIRY

The Committee of the Regions' opinion

The Committee of the Regions informed the Ombudsman on 21 October 2004 that on 15 July 2004 the complainant had initiated proceedings at the Court of First Instance (case T-288/04) concerning the revision of his grading. The Committee of the Regions referred to Article 1 (3) of the Ombudsman's Statute.

The complainant's observations

In a telephone conversation of 3 November 2004 with the Ombudsman's services, the complainant confirmed that his lawyer had indeed initiated proceedings at the Court of First Instance concerning the revision of his grading.

THE DECISION

1 The claim for a revision of the complainant's classification

1.1 The complainant claims a revision of his grading in accordance with Decision n° 57/95 and with the opinion from the Legal Service.

1.2 The Committee of the Regions informed the Ombudsman that on 15 July 2004 the complainant had initiated proceedings at the Court of First Instance (case T-288/04) concerning the revision of his grading. The complainant confirmed this in a telephone conversation of 3 November 2004 with the Ombudsman's services.

1.3 The Ombudsman notes that Article 195 of the Treaty establishing the European Community empowers the European Ombudsman to receive complaints "... concerning instances of maladministration in the activities of the Community institutions or bodies... *except where the alleged facts are or have been the subject of legal proceedings.*" Moreover, article 2 (7) of the Statute of the European Ombudsman provides that "*when the Ombudsman, because of legal proceedings in progress or concluded concerning the 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.*"

1.4 It appears that the complainant has initiated proceedings at the Court of First Instance on the same alleged facts as those in his complaint to the Ombudsman. In accordance with Article



2 (7) of the Statute, the Ombudsman therefore terminates consideration of the complaint and files the outcome of the inquiries carried out so far without further action.

2 Conclusion

The Ombudsman terminates consideration of the complaint and files the outcome of the inquiries carried out so far without further action.

The Secretary-General of the Committee of the Regions will also be informed of this decision.

Yours sincerely,

P. Nikiforos DIAMANDOUROS