

Decision of the European Ombudsman in the own initiative inquiry OI/1/2000/OV against the European Commission

Decision

Case OI/1/2000/OV - Opened on 12/09/2000 - Decision on 28/11/2000

Strasbourg, 28 November 2000 Dear Mr President of the European Commission, On 12 September 2000 I started an own initiative inquiry into the delay of the Commission to give effect to the draft recommendation which I made in complaint 489/98/OV made by Mr P. On 10 November 2000, the Commission sent me its opinion on the own initiative inquiry. Previously, on 26 September and 23 October 2000, the complainant sent his observations on the action taken by the Commission further to the draft recommendation. I am writing now to let you know the results of the own initiative inquiry.

THE BACKGROUND OF THE INQUIRY

On 1 April 1998 Mr P. made a complaint to the European Ombudsman concerning the failure of the European Commission to reinstate him at the end of his unpaid leave on personal grounds (1 October 1996) and its refusal to pay him a compensation for the loss of salary and the reduced pension. By decision dated 4 November 1999 (1) , following an inquiry into the complaint and given that it was not possible to find a friendly solution between the parties, the Ombudsman addressed the following draft recommendation to the Commission in accordance with Article 3(6) of the Statute of the Ombudsman: *The Commission should compensate the complainant for the material damage he directly suffered as a result of the Commission's service related fault which is the failure to undertake a detailed examination of the complainant's qualifications for the posts which were vacant after the expiry of his leave on personal grounds.* By letter of 13 March 2000, the Commission informed the Ombudsman of its acceptance of the draft recommendation and of the measure which it had taken to implement it, namely awarding the complainant a compensation equivalent to two months salary for the damage he suffered. Considering that this measure appeared to be satisfactory, the Ombudsman closed the case by [decision \[Link\] 008629](#) of 12 April 2000.

THE INQUIRY

From the letters which the complainant sent to the Commission on 30 June and 17 August 2000 with a copy to the Ombudsman, it appeared however that, after a period of 6 months, the Commission had still not paid to the complainant the two months of salary to which it referred in its letter of 13 March 2000. In accordance with Article 3.1 of the Statute of the European Ombudsman, the Ombudsman therefore started the present own initiative inquiry and asked the



Commission to submit a comment on it. **The Commission's opinion** The Commission informed the Ombudsman that the request for payment was introduced on 11 September 2000, i.e. one day before the launching of the own initiative inquiry, and that the sum due to the complainant was transferred on his bank account on 20 September 2000. **The complainant's observations** In his observations the complainant acknowledged that on 22 September 2000 his bank account was credited by the Commission with GBP 8.820,55 (BEF 597.116 or € 14.802,12). The complainant however observed that no calculation of the amount was provided by the Commission and that the amount fell short of the two months of salary which the Commission had agreed to pay as compensation. He indicated that the amount roughly corresponded to two months' pension and not to two months salary for a post A4 (8), and that it should be increased by a factor of 100:52 as he is only on a 52 % pension. Further more, there should be paid delay interests (4 years) and the household allowance should have been included in the calculation as the complainant was married on 25 October 1996. The complainant finally indicated that the conversion factor from BEF to GBP was not correct and was an arbitrary rate used by the bank. On basis of his own calculations, the complainant arrived at the conclusion that the compensation should have been GBP 18.560 (or 18.263) instead of GBP 8.820,55. He therefore requested the necessary adjustments to be made.

THE DECISION

1 The delay in the Commission's payment of a compensation to the complainant 1.1

From the letters of 30 June and 17 August 2000 sent to the Commission with a copy to the Ombudsman, it appeared that, after a period of 6 months, the Commission had still not paid to the complainant the two months of salary to which it referred in its letter of 13 March 2000 by which it accepted the Ombudsman's draft recommendation in case 489/98/OV. 1.2 On 10 November 2000 the Commission informed the Ombudsman that on 20 September 2000 it had credited the complainant's bank account. From the complainant's observations it appeared that the complainant received a compensation of GBP 8.820,55 (BEF 597.116 or € 14.802,12). The complainant observed that the compensation granted by the Commission was not taking into account several elements and that the amount should be adjusted to GBP 18.560. 1.3 The Ombudsman notes that, when on 13 March 2000 the Commission accepted the draft recommendation to compensate the complainant for the material damage he had directly suffered as a result of the its service related fault, the Commission proposed to *"award compensation equivalent to two months salary for the damage he suffered, subject to deduction of any net earned income received by him for the same period while engaged in other activities"*. 1.4 The Ombudsman considers that the amount which was credited on the complainant's bank account on 22 September 2000 corresponds to the Commission's undertaking of 13 March 2000 to compensate the complainant for the damage he suffered. The Commission has thus duly executed the draft recommendation. **2 Conclusion** On the basis of the European Ombudsman's inquiries into this own initiative, there appears to have been no maladministration by the European Commission. The Ombudsman has therefore decided to close the case.

Yours sincerely Jacob Söderman

(1) See Annual Report 1999 of the European Ombudsman, page 224.