

Decision of the European Ombudsman on complaint 18/2007/TN against the European Commission

Decision

Case 18/2007/TN - Opened on 18/01/2007 - Decision on 17/09/2007

Strasbourg, 17 September 2007

Dear Mr N.,

On 29 December 2006, you submitted a complaint to the European Ombudsman against the European Commission, concerning payment for images delivered by your company to it and published in its *Courier* magazine.

On 18 January 2007, I forwarded the complaint to the President of the Commission. After having been granted an extension of the deadline for submitting its opinion and following a written reminder from my services, the Commission sent its opinion on 22 June 2007. I forwarded it to you with an invitation to make observations, if you so wished, by 31 July 2007. No written observations were received from you by that date.

When my services contacted you by telephone on 3 September 2007 you explained that you considered the matter to have been settled.

I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The relevant facts according to the complainant can be summarised as follows.

The complainant, who runs an image library in Botswana, was contacted by the Commission Delegation in Botswana ("the Delegation") in 2003 in order to obtain images of the country for a country profile in its *Courier* magazine. The images were supplied by the complainant's company and appeared in the *Courier* issue 198, May-June 2003. However, his company was not paid for the images, despite continuous contacts with the Commission, both in Botswana and in Brussels. The Delegation did its utmost to obtain information from the Brussels headquarters, as late as July 2006, but received no response.

In his complaint to the European Ombudsman, the complainant alleged that the Commission



had failed to pay for the images of Botswana that were published in its *Courier* magazine, issue 198, in May-June 2003.

The complainant claimed that the Commission should:

- pay the outstanding EUR 220;
- pay interest; and
- compensate him for some of the time he spent dealing with the delay in payment.

THE INQUIRY

The Commission's opinion

The Commission's opinion can be summarised as follows.

At the Commission's request, the complainant's company provided some images that were used for a country report on Botswana, which appeared in the May-June 2003 edition of its *Courier* magazine. However, despite several requests from the complainant, the invoice for the amount of EUR 220 remained unpaid and the complainant eventually complained to the Ombudsman.

Following the complaint to the Ombudsman, the Commission, by letter of 23 March 2007, informed the complainant that it would make the outstanding payment, plus interest for late payment. The complainant agreed to the proposed settlement during a telephone communication on 7 May 2007, which he subsequently confirmed by e-mail of 30 May 2007.

On 30 May 2007, the Commission paid the complainant the outstanding invoice for the amount of EUR 220. The Commission explained that, given the time spent by the complainant in dealing with the delayed payment, it also considered it appropriate to pay him interest. The interest was calculated on the basis of Article 38.1 of the General Conditions for service contracts financed by the European Development Fund, which was applied by analogy. In this regard, the date taken as the starting date for the calculation of interest was the date of receipt of complete and adequate information enabling the Commission's services to proceed with the payment, that is, 21 February 2006. Accordingly, the actual payment that the Commission transferred to the complainant's bank account on 30 May 2007 amounted to EUR 244.55.

The Commission admits that the delay in executing the payment was long and should not have occurred. For this reason, the Commission reiterates its sincere apologies to the complainant, which were expressed in its letter of 23 March 2007.

The complainant's observations

The Ombudsman invited the complainant to submit observations on the Commission's opinion by 31 July 2007. No written observations were received from the complainant by that date.

On 3 September 2007, the Ombudsman's services telephoned the complainant, who explained that he had received the outstanding payment, plus interest, and that he was satisfied with the total amount paid. He therefore considered the matter to have been settled by the Commission.



THE DECISION

1 The alleged failure to pay for images and related claims

1.1 The complaint, which was against the European Commission, concerned the payment for images delivered by the complainant's company. The images were published in the Commission's *Courier* magazine in the May-June 2003 issue. However, the complainant's company was not paid for the images, despite continuous contacts with the Commission, both in Botswana and in Brussels. The Commission Delegation in Botswana did its utmost to obtain information from the Brussels headquarters, as late as in July 2006, but had no response. The complainant alleged that the Commission had failed to pay for the images of Botswana that were published in its *Courier* magazine, issue 198, in May-June 2003. The complainant claimed that the Commission should: (1) pay the outstanding EUR 220; (2) pay interest; and (3) compensate him for some of the time he spent dealing with the delay in payment.

1.2 In its opinion, the Commission acknowledged that the complainant's company had provided the images and that, despite several requests from the complainant, it had not made the necessary payment. Following the complaint to the European Ombudsman, the Commission had, on 30 May 2007, paid the complainant's outstanding invoice for the amount of EUR 220. Given the time spent by the complainant in dealing with the delayed payment, the Commission also considered it appropriate to pay him interest. Accordingly, the actual payment that the Commission transferred to the complainant's bank account on 30 May 2007 amounted to EUR 244.55. The complainant had agreed to the proposed settlement. The Commission admits that the delay in executing the payment was long and should not have occurred. For this reason, the Commission reiterates its sincere apologies to the complainant, which were expressed by letter of 23 March 2007.

1.3 On 3 September 2007, the Ombudsman's services telephoned the complainant, who explained that he had received the outstanding payment, plus interest, and that he was satisfied with the amount. He therefore considered the matter to have been settled by the Commission.

1.4 In view of the above, the Ombudsman considers that the Commission appears to have taken adequate steps to settle the matter and has thereby satisfied the complainant.

2 Conclusion

It appears from the information provided by the Commission and the complainant that the Commission has taken steps to settle the matter and has thereby satisfied the complainant. The Ombudsman therefore closes the case.

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS