

Decision of the European Ombudsman closing his inquiry into complaint 2791/2007/(BEH)KM against the European Commission

Decision

Case 2791/2007/(BEH)KM - Opened on 20/11/2007 - Decision on 11/11/2009

THE BACKGROUND TO THE COMPLAINT

1. According to Article 45(2) of the Staff Regulations of the European Communities ('Staff Regulations'), staff have to show that they can work in a third Community language before their first promotion. The full text of Article 45(2) of the Staff Regulations reads as follows:

" Officials shall be required to demonstrate before their first promotion after recruitment the ability to work in a third language among those referred to in Article 314 of the EC Treaty. The institutions shall adopt common rules by agreement between them for implementing this paragraph. These rules shall require access to training for officials in a third language and lay down the detailed arrangements for the assessment of officials' ability to work in a third language, in accordance with Article 7(2)(d) of Annex III. "

2. This provision was implemented by the Common Rules laying down the procedure for implementing Article 45(2) of the Staff Regulations ('Common Rules'), Articles 2 and 6 of which are particularly relevant to this complaint:

"...

Article 2 Choice of language

(1) The third language shall be chosen by the person concerned from among those referred to in Regulation No 1. It may not be the same as the two languages chosen for the competition or the selection procedure on the basis of which the official or member of the contract staff was recruited.

(2) Where training is required the immediate superior shall, in the course of a preliminary meeting, deliver an opinion, taking into account the interests of the service and of the institution

.



...

Article 6 Training

Officials or members of the contract staff whose level of competence in the third language is insufficient in relation to the assessment provided for in Article 7 may apply to the competent training department.

In order to ensure that all those concerned are given training in a third language, the institutions undertake to facilitate access to training to the applicants who require it, and shall give such training priority in relation to other applications for training. However, each institution shall lay down - for itself - the conditions and procedure for taking part in training.

If the institutions have approved an application under Article 45(2) of the Staff Regulations, the assessment provided for in Article 7 shall be carried out in the language in which the training has been requested. "

3. The complainant is a Commission official. On 9 December 2005, he requested permission to attend a course to learn Czech. This request was approved. However, on 21 February 2006, the course was cancelled, due to an insufficient number of participants. On 11 May 2006, the complainant submitted a new request, this time arguing that he had chosen Czech as his third language, within the meaning of Article 45(2) of the Staff Regulations. This request was rejected on 26 June 2006.

4. On 27 June 2007, the complainant submitted a further request for permission to attend a course to learn Czech. In his training map, which his head of unit had approved, the Czech language course was marked as a priority under Article 45(2). However, on 2 July 2007, the complainant's head of unit rejected his training request.

5. On 6 July 2007, the complainant submitted a complaint pursuant to Article 90(2) of the Staff Regulations. He alleged that his head of unit had unlawfully rejected his training request. On 23 October 2007, the Commission rejected this complaint.

THE SUBJECT MATTER OF THE INQUIRY

6. In his complaint to the European Ombudsman, the complainant made the following allegations:

(1) The Commission violated his statutory right to access to training in a third language by rejecting his request for permission to attend a Czech language course. In particular, the rejection contravened a note circulated by DG Personnel and Administration on 15 February 2007 ('Note 16-2007'), according to which a request for language training, pursuant to Article 45(2) of the Staff Regulations, could not be rejected.



7. On 21 November 2007, the complainant contacted the Ombudsman's office stating that the Common Rules should have been mentioned in his allegation as constituting the basis of his argument that he had a statutory right to access to language training. The Ombudsman informed the Commission accordingly.

8. On 25 January 2008, the complainant made the following, second allegation:

(2) The training coordinator of the Commission's Directorate-General ('DG') DIGIT failed to give his opinion on the rejection of the complainant's request for permission to attend a Czech language course in time, and thus delayed an official opinion. This, therefore, delayed obtaining proof of sufficient knowledge in a third language, necessary for the complainant's first promotion.

9. On 13 February 2008, the complainant presented the following new aspects of his case, making a third allegation:

(3) The human resources manager in charge gave him incorrect information when he made his request to attend the said language course.

In an e-mail message to the complainant, the human resources manager took the view that, it is the reporting officer's right and duty to give advice on, or refuse any training requests. According to the complainant, this statement is incompatible with Administrative Note No 16-2007 which states that a request for language training, pursuant to Article 45(2) of the Staff Regulations, could not be rejected. The complainant added that DG ADMIN's decision not to revoke this statement was equally incompatible with the relevant rules published by the Commission.

10. On 27 February 2009, the complainant made a fourth allegation:

(4) The complainant was discriminated against since certain colleagues had been allowed to participate in a language course of their choice, which was regarded as training for a third language, even though they already spoke three languages.

11. Given that the complainant did not raise this issue in his Article 90(2) complaint, the Ombudsman considered that, in accordance with Article 2(8) of his Statute, the fourth allegation was inadmissible.

12. In his complaint to the Ombudsman and subsequent correspondence, the complainant made a number of claims.

- The Commission should revoke its decision of 2 July 2007, by which it rejected his training request;
- The Commission should grant him permission to attend a language course in the Czech language;
- The Commission should ensure that its training coordinators provide prompt and better information on decisions and conditions relating to training measures, insofar as these have an



impact on the careers of Commission staff; and

- The Commission should ensure that its human resources managers provide prompt and better information on decisions and conditions relating to training measures, insofar as these relate to the careers of Commission staff.

THE INQUIRY

13. The Ombudsman asked the Commission to submit an opinion on allegations (1) to (3) and the complainant's claims. The Commission sent its opinion on 4 April 2008. On 9 April 2008, the Ombudsman forwarded this opinion to the complainant with an invitation to make observations, which he sent on 30 May 2008.

14. On 23 July 2008, in the context of his further inquiries into the complaint, the Ombudsman asked the Commission for further information in relation to four factual issues which, in his view, required clarification. The Commission replied to this request on 8 January 2009.

15. On 13 January 2009, the Commission's reply to this request was forwarded to the complainant. On 2 March 2009, the complainant submitted his observations.

THE OMBUDSMAN'S ANALYSIS AND CONCLUSIONS

Preliminary remarks

16. On 4 November 2008, the complainant sent the Ombudsman a document on mediation procedures relating to training. He expressed the view that his immediate superior should have been aware of these procedures and questioned why they had not been followed when his request for training was rejected.

17. According to the said document, the mediation procedure is started by a request made by the official concerned. This request must be addressed to the relevant Director-General. The complainant did not state that he made any such request. The Ombudsman, therefore, considers that there is no need for further inquiries regarding the complainant's argument based on the document on mediation procedures.

A. Allegation of breach of the complainant's statutory right to training in the Czech language and related claims

Arguments presented to the Ombudsman

18. The complainant argued that he had a statutory right to language training, in the language of his choice. He relied on a sentence taken from the " *legislative financial statement* " relating to



the Common Rules, according to which " *access to language training is a statutory right* ". He further cited an administrative note in this respect, namely, Note 16-2007 of 15 February 2006, which states that " *any language training request* " made under Article 45(2) " *should be accepted* ".

19. In its opinion, the Commission referred to the arguments it made when the complainant's Article 90(2) complaint was rejected. It accepted that, in principle, an official to whom Article 45(2) applies should be given priority access to language training, and that the responsible superiors should grant such training requests. However, when deciding whether to grant a training request, the immediate superior must consider the interests of the service and the Commission (Article 2(2) of the Common Rules). A decision can also be justified by reference to the costs involved in language training, which is provided at the institution's expense and during working hours.

20. Where training in a third language is required, the interests of the service can take precedence over an official's wish to learn a specific language. Priority has to be given to training requests where an official has an immediate operational use for the language he wishes to learn. The Commission argued that the complainant, who was working for DG DIGIT, had a more immediate need of French and Dutch, the former a working language of the Commission, the latter a language used by many of the Commission's IT suppliers. When recruited, the complainant stated that he already had a very good knowledge of French, and a good knowledge of Dutch. The Commission, therefore, argued that the official should study one of these languages in greater depth rather than start learning another language from scratch.

21. The Commission, however, recognised that, where language training under Article 45(2) was concerned, the superior's right, and duty, to decide such requests is limited. This is reflected in Note 16-2007. Once a language is chosen as the third language for the purposes of Article 45(2), that is, after the immediate superior's opinion has been taken into account, training in that language cannot be refused. It noted, however, that no agreement was reached between the official and the superior in this case. In fact, the reporting officer objected strongly to the complainant's choice of Czech as his third language, and informed the complainant accordingly.

22. In his observations, the complainant repeated his allegations and arguments. In addition, he commented on the Commission's view that it was only once language training had commenced that a superior could not prevent an official from participating in such training. In the complainant's view, this statement had no basis in the cited legal texts, and was, therefore, arbitrary.

23. Further, he pointed out that Article 2 of the Common Rules states that the language chosen by the official " *may not be the same as the two languages chosen for the competition or the selection procedure on the basis of which the official or member of the contract staff was recruited.* " Having complied with this condition, he did not understand why his right to choose his third language freely could be further limited. He also submitted that the Commission's argument that training costs have to be considered when a language is chosen was not valid, since the costs connected with staff absences and organising language classes were accounted



for in the legislative financial statement relating to the Common Rules.

24. According to Article 2(2) of the Common Rules, the superior delivers an opinion on the training required, rather than the choice of language. Any other interpretation would unduly limit the official's right to choose his third language freely, as granted by Article 2(1) of the Common Rules. Further, the superior has the right to express only an opinion, which was not the same as rejecting a request for training. In this respect, the fact that the complainant's superior objected to the choice of Czech as a third language, did not amount to a rejection of his choice. In fact, he was not convinced by his superior's objections, which was why he adhered to his choice. The Commission's assertion that the choice of his third language had not been determined, was, therefore, untrue. To the contrary, he entered his choice in the sysper2 system as soon as it was possible.

25. The complainant objected to the Commission's argument that, in the interests of the service, a language chosen by an official must have an immediate use. He based this argument on the fact that, when entering training requests in the Commission's IT tool, which was designed for this purpose, different priorities could be chosen, which were: *Article 45(2) - Commission interest - DG/Service interest - Personal interest*. Where an official had an immediate use for a language, in the interest of the service, he would, therefore, have to choose "DG/service interest" rather than "Article 45(2)" to justify his training request. The fact that an "Article 45(2)" request takes priority over both "Commission interest" and "Personal interest" also shows the invalidity of the argument that the interests of the Commission were to be balanced against an official's personal interests, when determining the third language for the purposes of Article 45(2).

26. He agreed that it would have been easier for him to prove that he was proficient in Dutch or French. However, he argued that he was ready to take on the challenge of learning a new language, which would also further the aim of Community institutions (as expressed in the first recital to the Common Rules) to facilitate communication between EU officials and citizens by increasing the number of officials who speak a third language. Certifying his knowledge of Dutch would not further this aim, and would not be to his or the Commission's advantage. The complainant remarked that, in order to be promoted, he would have to demonstrate that he could work in a third language. However, he did not have certificates showing his level of proficiency in Dutch or French. He would, therefore, probably have to take a test and attend classes to improve his French or Dutch in order to prove that he had the required proficiency. This, in his view, meant that he could just as well choose to start learning a completely new language.

27. Replying to the Ombudsman's request for further information, the Commission first dealt with the question whether the superior's opinion related to the choice of language or the need for training. It began by pointing out that the provisions of the Common Rules had to be read in the light of Article 45(2) of the Staff Regulations, which, in the Commission's view, served the interests of the institutions and their services. The Common Rules could not be interpreted as entitling an official who already speaks three languages, therefore fulfilling the requirements of Article 45(2) of the Staff Regulations, to undertake language training at the institution's expense. Similarly, the Commission recalled that all officials were under a duty, imposed by Article 11 of



the Staff Regulations, to conduct themselves " *solely with the interests of the Community in mind* ". This meant that, when deciding which language to choose as a third language, an official should endeavour to minimise costs incurred by his institution, that is, choose the language which would result in the least time spent away from work and money invested in course fees.

28. According to Article 2(1) of the Common Rules, the choice of language is free. It only has to be one of the official languages of the European Union. The choice is limited so as to ensure that the interests of the services are taken into account. The superior's opinion serves as an institutional safeguard. Further, Article 6 of the Common Rules leaves it to the individual institution to determine conditions and procedure regarding training. For the Commission, the applicable rules are contained in its *Detailed Rules for the application of the general provisions for giving effect to the third paragraph of Article 24 of the Staff Regulations as regards training for Commission staff* , and the *Commission Decision of 7 May 2002 on Staff Training* . These provide that any training request is subject to approval by the line manager, approval by the DG training coordinator, and availability, in that order. This means that even requests introduced under Article 45(2), which are to be treated as priority requests, will not necessarily be granted.

29. Finally, the Commission pointed out that, according to Article 6 of the Common Rules, priority is to be given, and access to training facilitated, in relation to training requests by " *applicants who require it* ". The Commission argued that the complainant, who already had a knowledge of Dutch and French, was not amongst the group of people who required language training in order to fulfil the requirements of Article 45(2) of the Staff Regulations. Such situations illustrated why the requirement of a line manager's approval was justified: otherwise, requests introduced under Article 45(2), and potentially not justified by the need to learn a given language, would have to be given priority over requests by candidates who needed to learn the language for work-related reasons.

30. The Commission then went on to deal with the question of the precise legal consequences of a negative opinion delivered by the official's immediate superior. It stated that, in its view, the legal consequences of such a negative opinion were, quite simply, that the official could still choose his preferred language, but would not have a claim to Article 45(2) priority language training during his working time. An official could contest the decision not to be granted access to this specific language training. He could also choose another language.

31. In reply to a question posed to that effect by the Ombudsman, the Commission explained the origin of the rule whereby a training request could be rejected before the third language was chosen, and before the language training had started, but not after these events had occurred. According to the Commission, the rule arises from Article 6(3) of the Common Rules which states that if " *the institutions have approved an application under Article 45(2) of the Staff Regulations, the assessment provided for in Article 7 shall be carried out in the language in which the training has been requested* ", a provision which is also echoed in Note 16-2007. The Commission interpreted these rules as restricting the line manager's discretion once a third language training request had been granted, and the official concerned had already invested time and money in following a particular language course. In such cases, it would seem unjust



to require the official to change to a different language. However, the Commission insisted, this reasoning did not apply to the complainant, since he had never followed an Article 45(2) priority language course in Czech.

32. The Ombudsman further asked whether the Commission could still reject the complainant's choice of Czech as his third language, despite the fact that he had entered this choice in his training map, and his superior had approved it. He also wished to know on what grounds the Commission considered it could do so. The Commission replied that the training map was a personal development tool and that it was not binding but merely indicative. A line manager's decision giving general approval to a training need indicated in the training map did not mean that approval was actually given for specific training. This required separate approval since a specific training request could prove not to be in the interests of the service, for example, where times and dates clash with an official's work obligations. It was thus possible, and quite frequently the case, for training maps to be changed following further review or developments during the year.

33. In his observations on the Commission's reply, the complainant expressed the view that the Commission had not answered all the Ombudsman's questions. The complainant wanted to know whether his immediate superior had the right to issue an opinion on a training request, whereas the Commission only dealt with the right of the administration to do so. The complainant argued that his superior's opinion had no legal value and that Article 2(2) of the Common Rules could not be considered a restriction on Article 2(1). He believed it gave the superior the opportunity to argue in the Commission's interest, but the official could make the final decision. In his view, the right to freely choose the third language was expressly provided for in the Common Rules and the administration could not expressly grant such a right and then take it away it by means of an internal administrative interpretation. The complainant understood that the modalities for access to training could be determined by each institution according to the Common Rules, but he believed that institutions have a duty to provide access to the relevant training.

34. The Commission had argued that the intention behind the rule was not to grant third language training to officials who already have a third language. The complainant, however, pointed out that the requirement was not to speak a third language, but to be able to demonstrate sufficient knowledge of a third language. He had not obtained proof that he could work in a third language and, in order to do so, he would have to participate in language training. He argued that he was being denied access to this language training.

35. The complainant objected to the Commission's view of the legal consequences of a negative opinion on a language training request. In his view, an official clearly remained entitled to apply for training in the chosen language even if he received a negative opinion from an immediate superior regarding his choice of language. He stated that, in his view, it would breach the instructions in Note 16-2007 if an immediate superior rejected an application for third language training on the basis of his negative opinion on an official's choice of language.

36. The complainant noted that the Commission appeared to be saying that an official did not



have a right to training under Article 45(2) if the training had not yet started. He interpreted this as meaning that he would also be refused language training in Dutch or French, since he had not yet commenced a course in either of these languages under Article 45(2). If this were the case, he noted, nobody would ever be allowed to commence language training under Article 45(2).

37. The Commission stated that a training map could change to take account of further developments or changes. However, in the complainant's case, there had been no such changes or developments. In the complainant's view, the Commission did not explain how a line manager could agree to a training measure in the training map, but then reject a request for the specific training measure. His immediate superior knew that he spoke Dutch and French when, in 2006, he signed the training map, containing Czech as an Article 45(2) priority.

38. In addition, the complainant objected to the argument that his request for language training had been refused as not being in the interests of the service. He referred to the judgment in *Klinke v Court of Justice*. The Court stated that the administration's duty to have regard to the welfare of its officials " *reflects the balance of reciprocal rights and obligations established by the Staff Regulations* ". This meant that where an authority takes a decision, it has to take into account all relevant factors and consider " *not only the interests of the service but also those of the individual concerned* " [1]. The complainant submitted that in any event his application for training had been in the interests of the Commission, given that recital 1 to the Common Rules stated that it was intended to facilitate communication. Saving costs was not mentioned as an aim of this measure.

39. The complainant stated that he did not understand why the Commission, on the one hand, requires its officials to show that they speak a third language, but on the other hand, refuses to pay for the necessary training. He pointed out that he was now taking private lessons in Czech, investing time and effort in language learning, as he had done for Dutch and French. This had slowed down his progress in comparison to what he could have achieved on an official language course and, as a result, prevented him from being promoted in 2008. He considered it unjust that the Commission pays for language courses for officials who speak only two languages, but expects him to place the fruits of his hard labour, namely, the fact that he speaks French and Dutch, at the disposal of the Commission.

40. Finally, the complainant questioned whether his knowledge of French and Dutch would be sufficient to pass the required tests. He did not consider that it was for his superior to determine that it was, and to reject, on that basis, his request for priority access to language training in Czech. Likewise, he considered that the administration, far removed from the day-to-day work of Commission officials, was not in a position to make this assessment.

41. The complainant, therefore, stated that he was not convinced by the arguments raised by the Commission, and upheld his allegation.

The Ombudsman's assessment



42. The Ombudsman recalls that Article 45(2) states that officials must have a third language before their first promotion, and that the institutions should provide access to language training. Article 45(2) does not state how that language is chosen and by whom. The question, therefore, turns on the interpretation of the Common Rules, notably Articles 2 and 6.

43. Article 2(1) of the Common Rules states that an official can freely choose a third language from among the official languages of the European Communities. However, according to Article 2(2) of the Common Rules, where this choice would mean that the official in question would require language training, his immediate superior is called upon to provide an opinion, taking into account the interests of the service and of the institution.

44. In the course of this inquiry, the Commission clarified that the superior's opinion does not relate to the choice of language, but rather to whether an official's request for priority training in the chosen language will be granted. As to the legal value of the opinion, the Commission explained that a negative opinion means that the official is left to choose between changing his third language choice, or learning the language originally chosen without priority access to language training.

45. This interpretation is consistent with the general principle in the Commission's training rules, namely, that any training request is subject to approval. It is also consistent with Article 6(3) of the Common Rules. This provides that the final assessment has to be carried out in the language in which the training has been requested " *if the institutions have approved an application under Article 45(2)* " of the Staff Regulations. Contrary to the fears expressed by the complainant, this does not mean that all training requests will be denied unless training has commenced. It means that applications for language training under Article 45(2) are subject to approval, which can be denied or given.

46. The decision whether to grant an official Article 45(2) priority access to language training has to balance the interests of the service against the interests of the official concerned. This results, on the one hand, from Article 2(2) of the Common Rules, which requires the immediate superior to have regard to the interests of the service and of the institution, and, on the other hand, from the administration's duty to have regard to the welfare of its officials.

47. It appears from the information available to the Ombudsman that the Commission took into account both the interests of the service and the interests of the complainant. The Commission referred to the complainant's interest in fulfilling the Article 45(2) requirement of demonstrating knowledge of a third language as quickly as possible, and consistently argued that it would be easier for the complainant to do so by choosing Dutch or French as his third language. The Ombudsman, therefore, has no reason to believe that the Commission ignored the complainant's interests.

48. This conclusion is not called into question by the complainant's reference to Point 5 of Note 16-2007 (" *All language training requests from officials concerned by Article 45(2) have priority. Human Resource Units in the Directorates-General and services have been asked to explain to reporting officers and counter-signing officers that any language training request from such an*



official should be accepted "). Based on the German version of that text, the complainant argued that a request introduced under Article 45(2) "*cannot be rejected* " ("*nicht abgelehnt werden kann* ").

49. The administrative note, however, must be interpreted, as far as possible, in conformity with both Article 45(2) and the Common Rules, to which it refers. It is in that vein that the Commission argued that the superior's freedom to reject training requests is limited once the third language has been determined and the official has commenced language training. This argument is based on Article 6(3) of the Common Rules, according to which the assessment has to take place in the language chosen, once the institution concerned has approved the application. This interpretation appears to be reasonable.

50. The Ombudsman is not convinced by the complainant's argument that his choice of language was limited only by the requirement in Article 2(1) of the Common Rules, according to which the third language must be different from the languages used during recruitment. The said requirement merely defines what is to be understood as the "third language". Neither is he convinced by the complainant's argument that saving unnecessary costs should not be regarded as a valid consideration in view of the fact that resources are set aside for extra language training for officials in accordance with Article 45(2) of the Staff Regulations. Even where funds are earmarked for a specific purpose, such as the expected increased need for language training due to the introduction of Article 45(2), the Commission remains under an obligation to use its resources economically.

51. The Ombudsman, therefore, concludes that, in relation to the complainant's first allegation, no maladministration can be found. He also concludes that the complainant's first claim cannot be sustained.

B. Allegation of failure to provide an official reply in time and related claim

Arguments presented to the Ombudsman

52. In August 2006, following the rejection of his application for a Czech language course, the complainant asked the training coordinator of his Directorate-General for an opinion on the matter. He asked the training coordinator to explain what the complainant saw as a discrepancy between the priority assigned to applications for language courses under Article 45(2) and the rejection of his application by his immediate superior. He alleged that he received a reply only in May 2007, after sending a reminder to his training coordinator. The complainant states that this development delayed his progress in acquiring the required level of proficiency in Czech because he could not sign up for the language course in the spring of 2007 without the training coordinator's opinion. He also argued that the training coordinator's explanation for the delay, namely, that he was waiting for an official opinion from the administration, was not valid since the administration had clearly expressed its intentions in the Common Rules and Note 16-2007.



53. The complainant also commented on the points made by the Commission regarding his Article 90(2) complaint. The Commission argued that he was not adversely affected by the fact that he did not receive the requested opinion at the time he would have liked. The complainant stated that, before receiving the training coordinator's opinion, it was unclear to him which of the conflicting opinions he had received was correct. Not knowing whether he had priority access to language training or whether his request could be rejected, he was unable to apply for a Czech language course. In reply to the Commission's statement that he could have obtained the desired information through other means, such as the internet, the complainant replied that he had sought to do so, but the information was conflicting.

54. The complainant claimed that the Commission should ensure that its training coordinators provide better information relating to training matters, and make this information available in a speedier manner, particularly where the professional careers of Commission staff were concerned.

55. In its opinion, the Commission reiterated what it stated in its decision on the complainant's Article 90(2) complaint. It argued that the complainant was not adversely affected by not promptly receiving an opinion from the training coordinator when he requested it. The relevant criterion to be taken into account was whether the complainant could reach the required level of proficiency in a third language in order to qualify for promotion. He could have done so much more easily if he had chosen French or Dutch, languages of which he declared he had a good knowledge. The Commission, therefore, argued that this allegation and related claim were unfounded.

56. In its decision on the complainant's Article 90(2) complaint, the Commission also stated that the training coordinator informed the complainant that it would be more advantageous for him to choose one of the languages he already spoke. This conversation appears to have taken place in September 2006.

57. In his observations on the Commission's opinion, the complainant repeated his allegation that the training coordinator failed to provide an opinion in time and that this delayed his participation in language training.

The Ombudsman's assessment

58. The complainant alleges that his progress in Czech was delayed because his training coordinator did not provide him with the requested opinion in a timely manner.

59. The Ombudsman notes that a considerable period of time elapsed between the complainant's initial e-mail to the training coordinator and the latter's written reply. However, the complainant did not establish that he was unable to apply for, or sign up for, a Czech language course without the opinion from the training coordinator. In any event, it should be noted that the Commission, in its decision on the Article 90(2) complaint, referred to a meeting between the complainant and the training coordinator, which appears to have taken place shortly after the complainant sent his request for information. During this meeting, the training coordinator



provided some advice to the complainant. The complainant did not dispute the Commission's statement.

60. The Ombudsman, therefore, concludes that there is no maladministration regarding this allegation.

61. As regards the complainant's claim that the Commission should improve the quality and speed with which its training coordinators provide officials with information, the Ombudsman agrees that it is desirable for the administration to provide clear and correct advice to officials who request assistance, and to do so within a reasonable time. However, for the Ombudsman to sustain the complainant's claim, it would have to be proved that the Commission's training coordinators fail to act accordingly. It should be noted that the complainant did not produce any evidence in this respect. The complainant's comments focused on the behaviour of the training coordinator with whom he dealt. However, and as noted above, no maladministration was found regarding the behaviour of this person.

62. The complainant's claim cannot, therefore, be sustained.

C. Allegation of wrong information on the rights of reporting officers and related claim

Arguments presented to the Ombudsman

63. The complainant alleged that the human resources manager in charge of the matter misinformed him regarding his training request. The manager told him that the general principle that the reporting officer had the right, and the duty, to advise on training requests, also applied in relation to requests for language training, pursuant to Article 45(2) of the Staff Regulations. The complainant argued that this statement was incompatible with Note 16-2007 and, therefore, wrong, as was DG ADMIN's decision not to revoke it. The complainant claimed that the Commission should ensure that its HR managers provide faster and better information, especially in matters relating to the professional careers of Commission staff.

64. In its opinion, the Commission stated that, contrary to the complainant's claim, the information provided by the HR manager was correct. It, therefore, considered the allegation and claim raised by the complainant to be unfounded.

The Ombudsman's assessment

65. As stated above, the Ombudsman considers that the opinion expressed by the human resources manager is correct. The general principle that the reporting officer had the right, and the duty, to advise on training requests derives from the *Commission Decision of 7 May 2002 on Staff Training* and the *Detailed Rules for the application of the general provisions for giving effect to the third paragraph of Article 24 of the Staff Regulations as regards training for Commission Staff*. The application of this general rule in the present case is also consistent with



Article 2(2) of the Common Rules.

66. The Ombudsman, therefore, concludes that there is no maladministration in relation to this allegation. The related claim cannot, therefore, be sustained.

D. Conclusions

On the basis of his inquiry into this complaint, the Ombudsman closes it with the following conclusion:

No maladministration was found in relation to the allegations and claims submitted by the complainant.

The complainant and the Commission will be informed of this decision.

P. Nikiforos DIAMANDOUROS

Done in Strasbourg on 11 November 2009

[1] Case C-298/93 P *Klinke v ECJ* [1994] ECR I-3009 at paragraph 38.