

Ombudsman identifies shortcomings in Vienna airport investigation

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The European Ombudsman, **P. Nikiforos Diamandouros**, has identified shortcomings in the European Commission's on-going infringement proceedings against Austria concerning Vienna airport. The Commission opened its investigation following complaints from 27 Austrian citizens' initiatives that Vienna airport had undergone repeated extensions, in the absence of an obligatory environmental impact assessment (EIA). The Commission subsequently agreed that the Austrian authorities would carry out a retroactive EIA. The Ombudsman's inquiry, however, identified several problems with this retroactive EIA, including a potential conflict of interest within the national authorities. Since the Commission has not yet taken a final decision on this case, the Ombudsman concluded: "I trust that the Commission will take account of my findings when adopting its final decision on the complainant's infringement complaint."

Missing environmental impact assessment for extension of Vienna airport

Since 1999, the infrastructure of Vienna airport has been improved and extended via several building projects. 27 Austrian citizens' initiatives lodged a complaint with the Commission arguing that the Austrian authorities had not carried out the necessary environmental impact assessment (EIA). The Commission agreed with the complainants that an EIA should have been carried out before the start of the extension works. However, since most of the projects had already been completed or were close to completion, the Commission refrained from taking Austria to court given that the Austrian authorities agreed to carry out a retroactive EIA with a view to potential compensation measures being taken.

In May 2008, the complainants turned to the Ombudsman, alleging that the Commission had failed properly to conduct its infringement proceedings against Austria. The Ombudsman identified several problems with the retroactive EIA. Firstly, the ministry entrusted with carrying out the retroactive EIA was the same ministry that had issued some of the permits for the project. The Ombudsman shared the complainants' view that this might constitute a conflict of interest. Secondly, the Ombudsman stated that it would have been more logical to use 1998 as the base year for the retroactive EIA and not 1999, as accepted by the Commission. Thirdly, the Ombudsman expressed his surprise at the fact that the Commission did not make sure that an adequate judicial review procedure would be available to parties interested in the case.

Since both the EIA and the Commission's investigation are still ongoing, the Ombudsman



concluded that no further inquiries were justified for the moment and closed the case. He pointed out, however, that the complainants could turn to him again if the Commission's final decision did not satisfy them.

The Ombudsman's decision is available at:

<http://www.ombudsman.europa.eu/cases/decision.faces/en/4451/html.bookmark> [Link]