

## Decision of the European Ombudsman closing his inquiry into complaint 1951/2011/DK against the European Commission

Decision

**Case** 1951/2011/DK - **Opened on** 17/11/2011 - **Decision on** 02/07/2013 - **Institution concerned** European Commission ( Dealt with by a Court ) |

Strasbourg, 2 July 2013

Dear Mr A,

On 26 September 2011, the European Federation of Associations of Health Product Manufacturers submitted a complaint to the European Ombudsman concerning the application of Regulation 1924/2006 on nutrition and health claims made on foods [1] .

On 17 November 2011, I forwarded a copy of the complaint to the Commission with a request to provide an opinion on the allegation that the Commission erred by adopting a Union list of permitted health claims that was drawn up using methods that were not in accordance with Regulation 1924/2006.

On 7 March 2012, the Commission sent its opinion on the complaint, which was forwarded to the Federation with an invitation to submit observations. On 3 April 2012, the Federation sent its observations.

On 5 June 2012, the Federation informed me that it was likely that an application would be submitted to the Court of Justice of the European Union as regards the drawing up by the Commission of a list of permitted health claims and the alleged misapplication of Regulation 1924/2006.

By letter of 17 July 2012, the Commission confirmed that, on 4 July 2012, an association different than the complainant submitted an action for annulment of Regulation 1924/2006 including the permitted list of health claims. The Commission also stated that its legal service would analyse whether the subject matter of the case submitted to the Court was the same as the one concerned by the present complaint.



On 23 November 2012, the Commission sent its legal analyses, confirming that the actions for annulment brought before the Court relate, inter alia, to the same subject matters. The Commission therefore requested me to close the case in accordance with Article 228 of the Treaty on the Functioning of the EU, Article 2(7) of the Ombudsman's Statute and Article 10(3) of the Ombudsman Implementing Provisions.

On 4 December 2012, I forwarded the Commission's legal analysis to the Federation with an invitation to submit observations.

On 11 June 2013, the Federation informed me of its agreement that the Ombudsman's inquiry should be closed, whilst noting, however, that it was not itself party to any legal actions initiated with respect to Regulation 1924/2006.

In view of the above, I consider that no further inquiries into the present complaint are justified and I have therefore closed the case.

Yours sincerely,

P. Nikiforos Diamandouros

[1] Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, OJ 2006 L 404, p. 9.