

Decision of the European Ombudsman closing his inquiry into complaint 1825/2009/IP against the European Parliament

Decision

Case 1825/2009/IP - Opened on 09/09/2009 - Decision on 15/11/2010

The background to the complaint

1. In March 2009, the complainant wrote to the 'Correspondence with citizens Unit' of the European Parliament. He asked " *whether it was possible to receive information about the activities of MEPs during previous legislatures.* " In particular, he referred to " *parliamentary questions and others* ". On the same date, Parliament sent an acknowledgment of receipt to the complainant informing him that his request would be dealt with as soon as possible.
2. In July 2009, the complainant turned to the Ombudsman because he had not yet received a reply from Parliament.

The subject matter of the inquiry

3. In his complaint, the complainant alleged that Parliament failed to reply to his request for information of March 2009 and claimed that the institution should reply to his e-mail and provide him with the information requested.
4. During a telephone conversation with the Ombudsman's services on 24 July 2009, the complainant clarified that he wanted information concerning the parliamentary questions submitted by MEP X during the third legislature, and the corresponding replies. On the same day, the Ombudsman's services informed Parliament accordingly by telephone.

Actions taken by the Ombudsman

5. In light of the nature of the complainant's allegation and claim, the Ombudsman decided to open a telephone procedure. On 20 July 2009, his services contacted Parliament in order to verify whether the institution's services were willing to deal with this case and draft a reply to the



complainant as soon as possible.

6. By e-mail of 23 July 2009, Mrs Y. explained that the failure to reply to the complainant's e-mail of 17 March 2009 was due to the fact that Parliament's services had already replied to a similar question asked by the complainant in 2008. She further stressed that the relevant service had informed the complainant twice that it was not possible to maintain a constant exchange of correspondence with him. Regarding the acknowledgment of receipt with the information that the complainant's e-mail would be dealt as soon as possible, Mrs Y stated that it was generated automatically. Its purpose was to guarantee that the relevant e-mail was dealt with by the responsible Parliament official. It did not mean that a specific reply would be sent to the complainant.

7. Mrs Y further forwarded to the Ombudsman's services two documents. The first was a copy of an e-mail of the same date from Mr Z, an official of the Correspondence with citizens Unit, to Mrs Y stating that the question posed by the complainant in his e-mail of 17 March 2009 had already received a reply on 3 March 2009. The second document was a table summarising the correspondence sent by the complainant to Parliament and the corresponding actions taken by the institution's services.

8. From the content of the table referred to above, it appeared that, on 23 September 2008, the complainant wrote to the Correspondence with Citizens Unit asking for information about the activity of MEPs during the third legislature. This letter was registered under reference (2008)17114. It was filed on 24 November 2008 with the following explanation: "*Clôturé le 24 novembre 2008: car double emploi avec le 17825*". It emerged from the same table that the reference "17825" concerned an e-mail sent by the complainant on 3 October 2008 asking Parliament for information concerning the Italian MEP XX's attendance of parliamentary plenary sessions. Parliament replied to the complainant's e-mail of 3 October 2008 on 5 November 2008.

9. The complainant's e-mail of March 2009 was registered under reference (2009)3771. It was filed with the following explanation: "*classement sans suite, car on avait déjà répondu au même sujet: 3771.*" It emerged from the table provided by Parliament that the reference "3771" concerned a letter sent by the complainant on 19 February 2009, in which he pointed out that he was unable to have online access to a certain number of Parliamentary questions. Parliament replied to this e-mail on 3 March 2009.

10. From the information provided to the Ombudsman, it did not appear possible to conclude that Parliament had effectively replied to the content of the complainant's e-mail of 17 March 2009.

11. The Ombudsman's services therefore contacted Parliament's services again, asking them if they would be willing to reply to the complainant's request of 17 March 2009. The Ombudsman's services also informed Parliament of the clarifications provided by the complainant on 24 July 2009, namely, that he wished to know the parliamentary questions submitted by MEP X during the third legislature.



12. On 27 July 2009, Parliament forwarded to the Ombudsman a copy of the reply sent by the institution to the complainant on 5 November 2008. According to Parliament, it was a reply to the complainant's request of 23 September 2008, namely, the request which Parliament considered to be essentially the same as the one of 17 March 2009 here in dispute.

13. However, the reply of 5 November 2008 did not deal with the issue relating to the activity of MEPs during the third legislature. Instead, it concerned MEP XX's [1] attendance of parliamentary plenary sessions.

14. In light of the foregoing, the Ombudsman concluded that it was not possible to procure a reply through a telephone procedure. He therefore opened a full inquiry.

The inquiry

15. On 9 September 2009, the Ombudsman opened an inquiry and asked Parliament to submit an opinion on the complainant's allegation and claim. Parliament submitted its opinion on 25 November 2009. The opinion was forwarded to the complainant, who submitted his observations on 17 December 2009.

The Ombudsman's analysis and conclusions

A. Allegation of failure to reply by Parliament and the related claim

Arguments presented to the Ombudsman

16. The complainant alleged that Parliament failed to reply to his request for information of 17 March 2009 concerning the parliamentary questions asked by certain MEPs during previous legislatures. He claimed that the institution should reply to his e-mail and provide him with the information requested.

17. On 24 July 2009, the Ombudsman's services telephoned the complainant in order to verify whether, as stated by Parliament, the institution's reply concerned his e-mail of 23 September 2008. The complainant confirmed that Parliament's reply of 5 November only concerned his e-mail of 3 October 2008, and specified the content of his requests of 23 September 2008 and 17 March 2009. The complainant then stated that he wished to receive information concerning the parliamentary questions submitted by MEP X during the third legislature and their corresponding replies. This information was also provided to Parliament by the Ombudsman's services.



18. In its opinion, Parliament regretted that the initial attempts made by the institution and the Ombudsman's services to find an amicable solution to the case did not produce the desired results.

19. Concerning the exchange of correspondence between the complainant and the institution, Parliament stated that, between 26 September 2008 and 15 October 2009, the complainant wrote sixteen e-mails to the Correspondence with Citizens Unit. Six of them concerned issues relating to MEPs' activities. In his e-mail of 17 March 2009, the complainant submitted a general request for information about the activities of MEPs during the third legislature. However, neither in that e-mail nor at any time afterwards did he specify that he was interested in the activities of MEP Mr X.

20. Parliament further stated that the request of 17 March 2009 was identical to the request made by the complainant in a previous e-mail of 23 September 2008, which was followed, a few days later, by another one concerning MEP XX attendance of parliamentary plenary sessions. Parliament replied to both requests in its answer of 5 November 2008. Since the complainant's e-mail was written in rather general and vague terms, Parliament (i) invited the complainant to consult the institution's website in order to have access to the minutes of Parliament's activities, and (ii) informed the complainant on how to obtain information about previous parliamentary legislatures.

21. Additionally, Parliament referred to further contacts made by the complainant with the Correspondence with Citizens Unit on 20 November 2008, 27 January 2009 and 19 February 2009. The complainant received replies on 16 December 2008, 11 February 2009 and on 3 March 2009. In its last reply, Parliament stated that it could not maintain a constant exchange of correspondence with the complainant.

22. In spite of the above, the complainant continued to write to the Correspondence with Citizens Unit. He sent his last e-mail on 29 August 2009, in which he asked for information about the activities of MEP X. Parliament replied on 30 September 2009. In addition to the information already provided to the complainant in its previous replies, the institution informed him that he had the possibility to consult the public register of Parliament's documents. If the complainant was interested in one or more of the documents which were not stored in the register, he had the possibility to make a request for access to documents using a specific form available for that purpose. On 16 October 2009, the European Parliament Archive and Documentation Centre sent the complainant the relevant documents concerning the activity of MEP X in electronic format.

23. Parliament considered that the complainant's behaviour towards the Correspondence with Citizens Unit was improper. Consequently, Parliament informed him twice that it would discontinue its correspondence with him. Nevertheless, Parliament, in an attempt to satisfy the complainant, wrote to him again on 20 July, 30 September and 15 October 2009.

24. In his observations, the complainant put forward that Parliament's statement concerning his behaviour was unacceptable. If an institution does not reply or fails to reply to a request from



citizens adequately, it cannot consider citizens' behaviour to be improper if they re-submit the same request several times or ask for clarifications. The complainant then emphasised that it was only after the Ombudsman's opening of the present inquiry that Parliament provided him with the requested information. During a telephone conversation with the Ombudsman's services on 6 August 2010, the complainant stated that he was satisfied with the information Parliament finally provided him with during the course of the Ombudsman's inquiry. He therefore considered that the case had been settled.

The Ombudsman's assessment

25. The Correspondence with Citizens Unit is a Parliament service that citizens can address to obtain information about Parliament and its activities. The complainant made use of this possibility in 2008 and 2009 by submitting several requests for information. One of the complainant's requests, submitted in March 2009, remained unanswered. This was the reason behind the present complaint.

26. In accordance with Article 12 of the European Code of Good Administrative Behaviour [2] (the European Code), officials shall be service-minded, correct, courteous and accessible in their relations with the public. When answering correspondence, telephone calls and e-mails, officials shall try to be as helpful as possible and shall reply as completely and accurately as possible to questions which they are asked.

27. The above provision is also foreseen, in almost identical terms, by Parliament's Code of Conduct [3]. In accordance with part III ('Relations with citizens') of Parliament's Code of Conduct, the European civil service must be open and accessible to citizens. Any written request sent by a person from outside the institution to one of Parliament's administrative departments must be dealt with as quickly as possible, and officials and other servants must behave in a courteous and helpful way when dealing with the public.

28. The right of citizens to receive a reply to their queries submitted to institutions, and the duty of the latter to provide a reply are, however, not absolute. In cases where correspondence from citizens is abusive because of its excessive number or of its repetitive or pointless character, no reply need be sent (Article 14(3) of the European Code). In this regard, the Ombudsman considers that this exception to the general principle that institutions have to reply to citizens' correspondence must be applied strictly. The citizens concerned have to be explicitly informed of the institution's decision to discontinue correspondence with them and of the reasons for that decision.

29. In the complainant's case, Parliament stated that, between 26 September 2008 and 15 October 2009, the complainant wrote 16 e-mails to the Correspondence with Citizens Unit. Six of his e-mails concerned issues relating to MEPs' activities. Neither the European Code nor the Parliament's Code of Conduct clearly defines the notion of " *excessive number* " or of " *repetitive and pointless* " character. The Ombudsman does not consider that a total of 16 e-mails sent over a period of 13 months can, in and of itself, be considered an excessive number that



renders the correspondence abusive.

30. Having examined the correspondence between the institution and the complainant, the Ombudsman recognises that a certain number of the complainant's e-mails concerned similar issues. However, this does not alter the fact that Parliament did not reply to the complainant's request of 17 March 2009. Parliament's remark that this request was identical to the one of 23 September 2008 is irrelevant because it did not reply to that request either. Furthermore, the Ombudsman has not found any elements in the complainant's correspondence which justify considering it as repetitive or pointless. The lack of clarity in the complainant's request (initially submitted on 23 September 2008) could simply have been remedied by inviting him to clarify what information he was actually looking for. This would have been consistent with the above-mentioned principles of good administration and would have removed the need to submit that same request again (which is what the complainant did on 17 March 2009). In fact, it was this omission which the Ombudsman attempted to remedy when his services called the complainant in an attempt better to understand the content of his request to Parliament and of his corresponding complaint. It is regrettable that Parliament did not subsequently respond more constructively when the Ombudsman attempted to elicit a quick reply using the telephone procedure.

31. The Ombudsman notes that, after he had opened the present inquiry, Parliament wrote to the complainant on 30 September 2009 and 16 October 2009 to provide him with the information that he was looking for.

32. In light of the above, and of the content of the telephone conversation between the complainant and the Ombudsman's service on 6 August 2010 (see paragraphs 15 and 24 above), the Ombudsman concludes that the case has been settled by Parliament to the complainant's satisfaction.

33. Nevertheless, the Ombudsman considers it appropriate to address briefly an issue relating to the acknowledgment of receipt which Parliament sent to the complainant on 17 March 2009. Without prejudice to the above conclusion, he will therefore also make a further remark below.

C. Conclusion

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

The case has been settled by Parliament.

The complainant and the President of Parliament will be informed of this decision.

Further remark



Principles of good administration require that institutions provide citizens with clear and unambiguous information. In the Ombudsman's view, any person who receives an acknowledgment of receipt similar to the one received by the complainant can reasonably expect to receive a reply from the institution. An institution making such a clear commitment to answer should indeed provide an answer to the citizen concerned.

P. Nikiforos Diamandouros

Done in Strasbourg on 15 November 2010

[1] The Ombudsman considers useful to quote the reply sent by the Correspondence with citizens Unit to the complainant on 5 November 2008,.The reply read as follows (in the original Italian):

"Egregio signore,

Rispondo al Suo messaggio elettronico indirizzato al Parlamento europeo (PE), in cui chiede la percentuale di presenza/assenza al PE del ex parlamentare europeo XX.

La informo che per ogni seduta plenaria del PE viene pubblicato un processo verbale (PV) contenente le decisioni per Parlamento e i nomi degli oratori (articolo 172 del regolamento). Il PV di una determinata seduta viene approvato dal parlamento nel corso della seduta successiva:

<http://www.europarl.europa.eu/activities/plenary/pv.do?language0IT> [Link]

Per le edizioni precedenti a quelle evincibili dal sito di cui sopra, potrà utilmente consultare gli archivi:

<http://www.europarl.europa.eu/activities/archives/pv.do?language0IT> [Link]

La prego gradire i miei più cordiali saluti

firma"

[2] The European Code of Good Administrative Behaviour was adopted by the European Parliament on 6 September 2001 (the Code is available at <http://www.ombudsman.europa.eu/code/en/default.htm> [Link]).

[3] The Code is available at:

http://www.europarl.europa.eu/RegData/PDF/406411_EN.pdf;jsessionid=5552FAEADB60286F957C84568C142683 [Link]

