

Contractual penalties due to delays in performance

Case 2432/2013/NF - Opened on 31/01/2014 - Decision on 06/11/2015 - Institution concerned European Commission (No maladministration found) |

Allegation(s)

When issuing debit notes for contractual penalties to the complainant, the Commission acted incorrectly and unfairly, given that it failed to take into account the following circumstances:

- 1) The Secretariat of the ACP Group of States, as the Contracting Authority, had consistently informed the complainant that the period for performing the contracts could not be extended and the complainant had therefore understood that no request for an extension could be made.
- 2) The delays in performing the contracts were not imputable to the complainant but mainly to the Secretariat of the ACP Group of States being late in providing certificates related to the VAT and import duties exemptions as well as to *force majeure* .

Claim(s)

In light of the principle of proportionality, the Commission should:

- 1)revoke the debit notes;
- 2)reimburse the offset amount of EUR 27 779.83 to the complainant and waive the recovery of the remaining amount of EUR 43 087.20.