

Request for a supplementary opinion and inspection of files

Correspondence - 05/02/2016

Case OI/11/2015/EIS - **Opened on** 15/06/2015 - **Decision on** 19/12/2016 - **Institution concerned** European Commission (No further inquiries justified) |

Mr Jean-Claude Juncker

President

European Commission

Strasbourg, 05/02/2016

Own-initiative inquiry OI/11/2015/EIS – request for a supplementary opinion and inspection of files

Dear Mr President,

On 15 June 2015, I opened an own-initiative inquiry regarding the timeliness of payments by the Commission. The purpose of the inquiry is to address any possible systemic shortcomings in the Commission's administration which lead to contractors and to (non-public) beneficiaries of grants and subsidies being paid late. On 30 September 2015, the Commission sent me its opinion. After a careful analysis of the Commission's opinion and contacts between our services, I have concluded that it is necessary to request a supplementary opinion and to inspect a range of files.

In its opinion, the Commission explains that the main reasons for the increased late payment averages in 2013 and 2014 are the shortage of payment appropriations across all headings and shorter payment deadlines introduced by the new Financial Regulation [1] . Against this backdrop of payment shortfalls, the Commission proposed, in May 2014, that payment appropriations be reinforced, while actively managing available appropriations. Furthermore, on 19 May 2015, the European Parliament, the Council and the Commission agreed on a "*joint statement on a payment plan 2015–2016*".

While these explanations are important, I require further information in order to address late



payment problems resulting, primarily, from poor or failed administration. Beyond stating that performance is monitored regularly by the Accounting Officer, and that follow-up action is undertaken where problems are identified with particular Directorates-General ('DGs'), the Commission's opinion contains little detail on this aspect of the problem.

In order to usefully pursue this inquiry, I would therefore appreciate it if the Commission could provide me with the following information:

1) Time-limits for payments

(i) Could the Commission please specify (a) the number and value of late payments which were due to the shortage of payment appropriations in 2014 and (b) the number and value of late payments in 2014 attributable to other factors, including possible maladministration?

(ii) The Commission's Annual Activity Reports for 2013 and 2014 show differences in performance, as regards the timeliness of payments, across the DGs and Offices [2] . Among them, DG AGRI, DG EMPL, DG DEVCO and FPI have a particularly high proportion of late payments.

- For late payments resulting from the shortage of payment appropriations in 2014, what were the measures taken to ensure that SMEs and other financially fragile recipients were given priority?
- For late payments attributable to other factors, such as possible cases of maladministration, what reasons for this were identified and what improvement actions were taken by the Commission?

(iii) Could the Commission please provide statistical data for 2015, as soon as it is available, in the same format as for 2013 and 2014? I should be grateful if these figures also included the information referred to in point (i) above.

2) Suspended Payments [3]

(iv) The Commission's Annual Activity Reports show differing levels of suspended payments across the DGs and Offices. I would be grateful if the Commission would provide me with information on (a) the main grounds leading to suspensions of payments, and (b) the measures being taken to address the comparatively higher levels of such suspensions in the case of DG DEVCO, DG RTD, DG JUST and DG REGIO.

3) Default interest

(v) Some DGs and Offices do not provide any information on the payment of interest in their Annual Activity Report. Could the Commission please outline the actions it has taken to ensure the implementation of Article 92(6) of the new Financial Regulation and Article 111(4) of the Rules of Application regarding default interest?



I would appreciate it if the Commission were to send its opinion on questions (i) to (v) above by 30 April 2016 at the latest. If there is a delay with the 2015 statistics, I would be grateful if I could have the other details provided in any event by that date. Please note that I intend to publish this opinion on my website, along with the opinion submitted by the Commission on 30 September 2015.

4) Inspection of files

(vi) Finally, I would appreciate it if, in accordance with Article 3(2) of the Statute of the European Ombudsman, you would arrange for my services to inspect the Commission's files on the following cases:

- the three cases with the longest delays in payment to non-public recipients in 2014;
- the three cases where the highest amount of interest was paid to private recipients in 2014;
- the three cases with the highest number of successive suspensions in 2014;
- three cases concerning late payments to SMEs; and
- three cases that the Commission considers as exemplary.

I should be grateful if your services could contact Ms Eija Salonen (+ 33 3 88 17 24 29), in order to agree on a convenient date for the inspection of the documents. A copy of the inspection report will be forwarded to the Commission. Please note that, in accordance with Articles 5(2), 13(3) and 14(2) of the Implementing Provisions of the European Ombudsman, the Ombudsman's inspection will not result in the public obtaining access to any documents which the Commission identifies as confidential during the inspection, or to any information contained in such documents.

By way of conclusion, I note that this is the fifth own-initiative inquiry the Ombudsman has conducted into the timeliness of payments by the Commission. I am sure that the Commission is committed to working along with my Office in seeking to address any systemic issues which have been contributing to the on-going problem of late payments by the Commission.

Yours sincerely,

Emily O'Reilly

[1] Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, OJ 2012 L 298, p. 1.



[2] Annex 3 – Financial Reports, Table 6 – Average payment times.

[3] I take it that payments are suspended in situations where disputes arise (for example, regarding the fulfilment of contractual obligations) between the Commission and a payee.