

Decision of the European Ombudsman on complaint 384/97/JMA against the European Commission

Decision

Case 384/97/JMA - Opened on 09/06/1997 - Decision on 15/09/1998

Strasbourg, 15 September 1998 Dear Sirs, On 5 May 1997, you lodged a complaint on behalf of the "European Nature Heritage Fund" to the European Ombudsman concerning an allegedly unjustified delay by the European Commission in settling the final payment for a project to be carried out by the complainants and funded by the institution. I forwarded the complaint to the President of the European Commission on 9 June 1997, informing you by letter of the same date. The Commission sent its comments on 31 July 1997, which I passed on to you on 15 September 1997 with an invitation to make observations. I have received no reply from you. I am writing now to let you know the result of the inquiries that have been made.

BACKGROUND

The complaint In their letter to the Ombudsman, the complainants explained that the Commission's services (DG VI) had granted on 21 June 1993 an amount of 660.473 ECUs to their organisation to carry out one particular aspect of the Project "Art. 8 93.ES.06.002" in relation to "Proyecto piloto y de demostración de aprovechamiento duradero de pastizales arbolados en el oeste de España" (1) . The project was completed by the European Nature Heritage Fund on 31 March 1996 and thereafter, on 3 May 1996, the organisation submitted the necessary technical and financial reports to the Commission in order to obtain final payment for the project. From the total amount to be funded, the Commission had already advanced to the complainants 73.755.269 ptas. On 12 June 1996 an official from DG VI requested some changes in the presentation of the Project's final reports, which were forwarded by the complainants on 20 June 1996. From June 1996 to February 1997 the complainants contacted the Commission on several occasions and by different means to request the final payment for the project. The Commission only replied on 27 February 1997 requesting a modification of the project's financial report, regardless of the fact that, in the view of the complainants, Annex II and III of their previous one was in conformity with the original guidelines for the completion of the project. On 29 April 1997, the complainants forwarded their new financial report, which included copies of all the bills paid by the organisation in the preparation of the project. At the time of the complaint to the Ombudsman on 5 May 1997, the complainants had received no further payments from the Commission, and as they stated, their financial situation was becoming desperate, more than a year after they had completed their work for the Commission.



They therefore requested information from the Ombudsman on whether the Commission had any deadline for late payments, and asked him to intervene in order to ensure that the final payment was promptly made.

THE INQUIRY

The Commission's opinion The European Commission's comments on the complaint are in summary the following: The Commission first described the type of project to be carried out by the complainants and some technical information on its financial contribution. This project was co-financed by the Commission on the basis of art. 8 of Regulation (CEE) n 4256/88. Payments for the project had been made in three different installments: a first advance for 40% of total costs (264.189 ECUs) made on 2 August 1993, a second one of 30 % (198.142 ECUs) paid on 18 May 1995, and the third and final one for the other 30 % (198.142 ECUs) made on 4 July 1997. In its reply, the Commission indicated that the first two payments had been made in due time, and only the final sum was delayed because of the need to verify some financial information concerning the project. Decision 1605/93, which set out the rules governing the project, established that final payments can only be made once the competent Commission services have approved the technical and financial reports submitted by the contractor. Annex II of that Decision authorises the Commission to request all relevant information from the contractor. In this particular case, the Commission services had to request additional information from the complainants on different occasions. Nevertheless, the year-delay in the last payment resulted as a consequence of the review carried out by the Commission of all projects relating to article 8 of Regulation 4256/88 following critical remarks levelled by the Court of Auditors. This review entailed a substantial increase in the work of the Commission's services. The Commission, however, underlined that having received on 29 April 1997 the new report from the complainants in line with its new guidelines, the institution cleared its final contribution in a two-month period. **The complainant's observations** Before the Ombudsman had received the reply to his inquiry from the Commission, the complainants sent some additional information by letters of 13 June and 14 July 1997. Their first letter referred to the contacts between the complainants and different services of the Commission with a view to finding out the situation of the final payment for their project. Although final payment seemed to be on its way, the relevant Commission services had also pointed out to the complainants that it was within their mandate to block payments in case of doubt. In view of this argument, the complainants questioned in their letter to the Ombudsman whether there should be a deadline to limit that power. In their letter of 14 July 1997, the complainants indicated that on that same day the final payment for the completion of their project had been received from the Commission. They also stated that unless the Commission modify its ways of cooperating with NGOs, organisations such as theirs would be unable to participate in any other project. The complainants also thanked the Ombudsman for his efforts to achieve a successful solution to their problem. The Ombudsman forwarded the Commission's comments to the complainants with an invitation to make observations. I received no observations.

DECISION OF THE EUROPEAN OMBUDSMAN

On the basis of the information provided by the complainants and the observations submitted by the European Commission, the Ombudsman concludes that the case has been settled by the European Commission to the complainants' full satisfaction. Against this background, the



European Ombudsman decides therefore to close the case. Yours sincerely, Jacob
SÖDERMAN cc: Mr Santer, President of the Commission
(1) Commission Decision C(93)1605