

Decision of the European Ombudsman on complaint 1180/97/VK against the European Commission

Decision

Case 1180/97/vk - Opened on 27/01/1998 - Decision on 15/06/1999

Strasbourg, 15 June 1999 Dear Mrs S., On 10 December 1997, the Austrian citizens adviser, Dr. Stefan Hornung, transferred your complaint against the European Commission to the European Ombudsman. You alleged that during negotiations with an official of the Commission, you were given the impression that your offer concerning the organisation of a team of interpreters for a conference held in Austria was accepted and that the conclusion of a written contract with the Commission was only a formality. As the Commission did not offer you a written contract in the end, you claimed that you and your fellow interpreters should be compensated for the time and the preparatory work invested into the project. On 27 January 1998, I forwarded the complaint to the President of the European Commission. The Commission sent its opinion on 20 April 1998 and I forwarded it to you with an invitation to make observations which I received on 15 July 1998. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The background to the complaint is in summary the following: The complainant is an interpreter who made an offer to provide complete interpreting services for a conference held under the auspices of the European Commission in Austria. She discussed details about the organisational, financial and technical aspects of the interpretation both with the Austrian organisers of the conference as well as with a representative of the Commission. The complainant claimed that she was given the impression by the Commission official that her offer was accepted and that the signing of the written contracts was only a formality. The complainant sent her offer by fax to the Commission official with whom she had discussed the details. As she had not heard from the Commission, the complainant contacted the Commission official by telephone. She was told to prepare the individual interpreting contracts and send them to the superior of the official concerned. One month later, the complainant had still not received any written confirmation from the Commission. She then was informed that the Commission had decided not to take her offer and to employ other interpreters. Against this background, the complainant lodged the complaint with the European Ombudsman. She alleged that the following constitutes instances of maladministration: - the fact that the complainant had been given the impression that her offer was accepted and that the written contract was only a formality, and that she was then informed by the Commission that her offer was not accepted - the fact that only the complainant received compensation for the expenses



incurred, but not the other interpreters who were prepared to work on her team.

THE INQUIRY

The Commission's opinion In its opinion, the Commission in substance stated the following: As regards the allegation that the complainant was given the impression that her offer was accepted, the Commission disputed that any such approval was ever given to the complainant. The Commission stated that a representative who travelled to Vienna and with whom the complainant discussed details of the conference was at no time instructed to accept an offer. Furthermore, it declared that the Commission representative made it clear to the complainant that only a preliminary evaluation of the offer could be made, and that a final decision was to be taken by the Director. The Commission also stated that a valid offer could only be made by a person who is entitled to do so and that this was not the case with the Commission representative in question. This could also be seen in the fact that the Commission official asked the complainant to make an offer in writing and send it to her superior. The complainant did send draft contracts to the superior official and therefore, she must have been aware that only the superior could decide on the matter and that only the written form was valid. The complainant's draft contracts were evaluated by the Interpreters' service of the Commission. They were found not to be in accordance with the Convention which was relevant for contracts between the Community Institutions and the International Association for conference interpreters (AIIC). The complainant was subsequently informed about this result by the Commission. According to the Commission, internationally active interpreters are normally aware that public administrations have formal procedures to follow before they can undertake any commitment. As regards the second allegation, the Commission stated that it reimbursed the complainant, as the complainant had expenses and as she rendered services to the Commission. **The complainant's observations** In relation to the main points, the complainant made the following observations: As regards the first allegation, the complainant reiterated that she was given the impression that her offer was approved. She stated that the Commission official did in no way make clear that she was not allowed to act for the Commission and that the contracts were to be approved by the Director. As regards the second allegation, the complainant reiterated that she requested damages for 6 of her fellow interpreters who counted on the agreements made.

THE DECISION

1 Alleged approval of the complainant's offer and formality of written contract 1.1 The complainant alleged that she was given the impression that her offer was approved by the Commission and that the written contract was only a formality. She stated that it was not made clear, that the official concerned was not allowed to act for the Commission. 1.2 The Commission denied that the relevant official had given any such approval. It stated that the official who travelled to Vienna and with whom the complainant discussed details of the conference was at no time instructed to accept an offer. Furthermore, it declared that the Commission official made it clear to the complainant that only a preliminary evaluation of the offer could be made, and that a final decision was to be taken by the Director. This could also be concluded from the fact that the official concerned asked the complainant to make an offer in writing and to send it to the official's superior. The Commission put forward that the complainant, by sending draft contracts to the superior, must have been aware that the decision



was not yet taken and that only the written form was valid. 1.3 The complainant has submitted a copy of a letter which she wrote to the Commission on 5 July 1997. This letter is addressed to the superior of the Commission official who visited Vienna. Draft contracts are attached to this letter. In the letter, the superior is asked to sign the contracts and return them to the complainant who will then obtain the interpreters' signature of the contracts. Thus, it appears that the complainant must have been aware of the fact that the contract was not approved until the competent official had signed it. As regards the actual behaviour of the Commission official who discussed the details with the complainant in spring and summer 1997, the Ombudsman finds that there is not sufficient evidence to the effect that the Commission had duly approved the offer. It shall be recalled that it is for the competent judicial court to resolve bindingly the question at issue by hearing testimony and evaluating conflicting evidence. **2 Payment of six of the other interpreters** 2.1 The complainant requested financial recompensation for six of her colleagues as they also relied on the agreement. The Commission denied any responsibility for the complainant's colleagues. 2.2 This request is based on the premise that the complainant had due reason to believe that her offer was accepted. As stated above, there is not sufficient evidence to assume that the competent official had approved the offer by signing a written contract. **Conclusion** On the basis of the European Ombudsman's inquiries into this complaint, there appears to be no maladministration by the European Commission. The President of the European Commission will also be informed of this decision. Yours sincerely
Jacob SÖDERMAN