

## Decision of the European Ombudsman on complaint 102/98/(XD)ADB against the European Commission

Decision

**Case 102/98/ADB - Opened on 12/02/1998 - Decision on 20/05/1999**

Strasbourg, 20 May 1999 Dear Mr R., On 9 January 1998 you lodged a complaint with the European Ombudsman concerning the European Commission's failure to reply to several of your letters relating to a problem of double taxation in connection with the French CSG (Contribution Sociale Généralisée) and CRDS (Contribution pour le Recouvrement de la Dette Sociale). On 12 February 1998, I forwarded the complaint to the President of the European Commission. The European Commission sent its opinion on 11 June 1998 and I forwarded it to you with an invitation to make observations, if you so wished. I received your observations on 3 July 1998. I am writing now to let you know the result of the inquiries that have been made.

**THE COMPLAINT** On 1 November 1997 the complainant addressed a complaint about the French CSG (Contribution Sociale Généralisée) and CRDS (Contribution pour le Recouvrement de la Dette Sociale) to the European Commission. As he didn't receive any reply, he contacted the Representation of the European Commission in Paris. Further, he asked the Representation of the Commission in Marseilles how he could act against this failure to reply. Eventually the complainant turned to the nonprofit making organization "La Maison de l'Europe" in Perpignan. Following these contacts, the complainant never received any answer, except two brochures (in particular one about the European Ombudsman) from the "Centre d'Informations sur l'Europe - Sources d'Europe" in Paris. On 9 January 1998, the complainant asked the European Ombudsman to investigate the failure to reply to his original complaint addressed to the Commission, as well as the failure to provide him with the requested information.

### THE INQUIRY

**The Commission's opinion** The opinion of the Commission on the complaint is in summary the following: The issue raised by the complainant in his letter to the Commission, which was subject to an infringement procedure brought before the European Court of Justice, was simultaneously dealt with by Directorate General (DG) XV and DG V of the Commission. Given the fact that the cases were still pending before the European Court of Justice, the substantive answer to the complainant's request was postponed. However, the Commission regretted that no holding reply was addressed to the complainant in the meantime. As regards the information requested from the Commission's representation in Marseilles, the Commission stated that the complainant didn't live within this office's geographic zone of competence. As a consequence, the request was transmitted to Paris, and the complainant was sent the relevant information through "Sources d'Europe". The Commission, in its reply to the Ombudsman's request of 12



February 1998, enclosed a copy of a letter which was sent to the complainant on 20 February 1998, which informed him of the infringement procedure against France. **The complainant's observations** The European Ombudsman forwarded the Commission's opinion to the complainant with an invitation to make observations. In his reply of 3 July 1998, the complainant put forward that further to the reply sent by the Commission on 20 February 1998, he had addressed the Commission twice, on 2 March 1998, and as a reminder on 8 June 1998. He wished to know whether his complaint had been finally registered or if he needed to lodge a new complaint, and whether he would be informed about the progress of the procedure. On 30 August 1998, the complainant informed the European Ombudsman that he hadn't yet received any reply to his letters of 2 March and 8 June 1998, and expressed serious doubts about the regrets mentioned by the Commission in its opinion to the Ombudsman. **Further actions** Following the additional difficulties faced by the complainant, the Ombudsman got in touch with the Commission on 10 September 1998. On 30 September 1998, the Commission acknowledged the receipt and registered the complainant's original complaint of 1 November 1997. On 5 October 1998 the complainant was informed of the progress of the infringement procedure against France.

## THE DECISION

**1 Failure to reply to the complaint** 1.1 The complainant put forward that he didn't receive any reply to a complaint he lodged with the European Commission. The Commission explained that the delays were caused by the fact that the subject matter raised by the complainant was at that time being investigated by the European Court of Justice. Nevertheless, the Commission apologized for the absence of a holding reply. 1.2 According to the information contained in the opinion of the Commission as regards its own procedures for dealing with complaints (sent to the Ombudsman in the framework of his own initiative inquiry ref. 303/97/PD): *"All complaints which reach the Commission are registered in the Secretariat-General. No exceptions are made. (...) When it receives a complaint, the first thing the Commission does is to acknowledge receipt. The letter acknowledging receipt is accompanied by an annex setting out the purpose and giving details of the infringement proceeding."* 1.3 The Ombudsman notes that on 11 June 1998, in the frame of the Ombudsman's investigation, the Commission expressly recognized the problem, and apologized for the delay and the absence of a holding reply. However, despite those regrets, and two additional requests by the complainant, the complaint lodged on 1 November 1997 was only formally registered on 30 September 1998, and required an additional intervention of the Ombudsman. 1.4 According to the Commission's own observations in the frame of the Ombudsman's own initiative inquiry 303/97/PD, no exceptions are made to the rule that all complaints received by the Commission are registered and a timely acknowledgement receipt is sent. The fact that in the present case, the Commission, once it was made aware of, recognized and apologised for the delay, did still not hasten to register the complaint, constitutes an instance of maladministration. **2 Failure to provide the complainant with the necessary information** 2.1 The complainant claims that he didn't receive any information when he addressed the Representation of the Commission in Marseilles. The Commission explained that his request had been transferred to the geographically competent Representation and that he received the adequate information from the "Centre d'Informations sur l'Europe - Sources d'Europe" in Paris. 2.2 The Representation of the Commission in Marseilles contacted the competent services to provide the complainant with the adequate information about the



possible appeals against a failure to reply by the Commission. Thus, there appears to have been no instance of maladministration concerning this aspect of the complaint. **3 Conclusion**

On the basis of the European Ombudsman's inquiries into the second aspect of the case, there appears to have been no maladministration by the Commission. As far as the first aspect of the case is concerned, it appears necessary to make the following critical remark: According to the Commission's own observations in the frame of the Ombudsman's own initiative inquiry 303/97/PD, no exceptions are made to the rule that all complaints received by the Commission are registered and a timely acknowledgement receipt is sent. The fact that in the present case, the Commission, once it was made aware of, recognized and apologised for the delay, did still not hasten to register the complaint, constitutes an instance of maladministration. Given that these aspects of the case concern procedures relating to specific events in the past, it is not appropriate to pursue a friendly settlement of the matter. The Ombudsman has therefore decided to close the case. The President of the European Commission will also be informed of this decision. Yours sincerely, Jacob SÖDERMAN