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Ombudsman calls on Commission to cut its claim for 92 000 EUR from NGO

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The European Ombudsman, **P. Nikiforos Diamandouros**, has called on the European Commission not to enforce the major element of a claim for 92 000 EUR against a French NGO. This follows a complaint from the non-profit organisation **Earth Data Network for Education and Scientific Exchange (EDNES)**, based in Strasbourg. The Commission asked EDNES to repay funding it had received for three research and technology projects in the former Soviet Union because it had subcontracted work to a Russian company in Moscow. This was not allowed under the contract. The NGO objected, arguing that it would not have been able to complete the projects using only its own volunteers. It also claimed that the Commission had been continuously informed about the organisational set-up of the projects and had not objected to the arrangement. It went on to add that all three projects had been a success. In the Ombudsman's view, to enforce repayment in this case would be disproportionate and unfair, since it would threaten the very existence of the NGO.

Recovery claim after conclusion of three successful projects in the former Soviet Union

Until 2003, EDNES acted as project coordinator in three EU-funded research and technology projects carried out in the former Soviet Union. All three projects were a success. In 2006, the Commission asked EDNES to repay 92 000 EUR, mostly in overhead costs (covering, for example, administration and management) because EDNES had subcontracted work to a Russian company in Moscow. Such a practice was not allowed under the contract.

EDNES turned to the Ombudsman, arguing that the recovery of the overhead costs was unfair and, in addition, threatened its very existence. It

explained that it is a non-profit organisation run by volunteers who do not receive any remuneration. It had no choice but to ask a Russian company for help in managing personnel recruited locally. According to EDNES, the Commission was informed at all stages about the organisational set-up of the projects and never objected. The complainant also pointed out that, in reaching its decision, the Commission ignored the positive outcome of the three projects. EDNES added that, as a small NGO, it lacked the financial resources to pay the Commission.

After investigating the case, the Ombudsman noted that the Commission did not express any doubt concerning EDNES' statement that it had acted in good faith. He pointed out that the NGO had managed to complete the projects successfully, notwithstanding the difficult conditions prevailing in the former Soviet Union. Despite making some mistakes, EDNES had, in his view, proved that it was sufficiently trustworthy and qualified to carry out EU-funded projects. He also noted that, because of the problems with the Commission, the NGO's survival was at stake. The Ombudsman, therefore, judged it disproportionate and unfair for the Commission to enforce its claim for repayment of the overhead costs in this particular case. Accordingly, he called on the Commission to submit a detailed opinion to him by 31 December 2010. He also urged the Commission to take into account the negative effect this case could have on other NGOs, which might be discouraged from participating in EU projects in the future.

The Ombudsman's recommendation is available at: <http://www.ombudsman.europa.eu/cases/draftrecommendation.faces/en/5326/html.bookmark>