

EUROPEAN PARLIAMENT

2004



2009

Committee on Petitions

19.12.2007

NOTICE TO MEMBERS

Subject: Petition 0980/2006 by Giorgios Gkinis (Greek) concerning alleged infringement of EU legislation regarding infrastructural works in Melissia Attikis in Greece

1. Summary of petition

The petitioner maintains that the Melissia Attikis municipal authorities have seriously infringed not only national but also EU legislation in respect of infrastructural works and projects receiving co-financing through the Regional and Structural Funds. The petitioner refers in this connection to a number of provisions of Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds and, in particular, provisions relating to financial control and Regulation (EC) No 1783/1999 of the European Parliament and of the Council on the European Regional Development Fund, calling on the EU institutions to monitor compliance therewith.

2. Admissibility

Declared admissible on 23 April 2007. Information requested from Commission under Rule 192(4).

3. Commission interim reply, received on 9 July 2007.

‘The petitioner maintains that the Melissia Attikis municipal authorities have infringed not only national but also Community legislation in respect of infrastructural works and projects receiving financing through the Regional and Structural Funds. He takes the view that the Melissia Attikis municipal authority, which is responsible for managing the 'Attiki' Operational Programme and the projected 'implementation of the urban development and infrastructural programme for District 1 of the municipality of Melissia', has failed to comply with a number of provisions of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds and of Regulation (EC) No

1783/1999 of the European Parliament and of the Council of 12 July 1999 on the European Regional Development Fund. The petitioner is seeking action by the European institutions to ensure compliance with these regulations.

Correspondence from the petitioner (identical letter and documentation) had already been received by the Commission (Directorate-General for Regional Policy on 29 January 2007 and the Secretariat-General on 12 February 2007).

The Commission (Directorate-General for Regional Policy) replied to Mr Gkinis by letter of 4 April 2007.

The letter points out that Article 8 of Regulation (EC) No 1260/1999 specifies complementarity and partnership between the Commission and the Member States regarding Structural Fund actions in compliance with the respective powers of each partner. In this connection, under the principle of subsidiarity, the implementation of actions receiving co-funding is the responsibility of the Member State authority designated in each case at the appropriate level of government within the institutional system of each Member State.

This means in particular that the Commission has no say in the selection of projects, this being exclusively the competence of the national authorities, provided that they act in accordance with the principles set out in the planning documents agreed on with the Commission that the latter comply with regulations currently in force.

In the letter of reply of 4 April 2007, Mr Gkinis was informed that redress for any harm caused to him in his opinion by the national authorities may be obtained through national channels alone.

The Commission considers that a reply has already been given to the petitioner's complaints to the European Parliament which, being too general in nature, fail to substantiate the alleged infringement of the rules applicable to the Structural Funds or any other national or Community legislative provisions.

In reply, the petitioner forwarded further correspondence dated 20 May 2007, which is currently being considered, information having been requested from the Greek authorities.

The Commission will keep the Committee on Petitions informed of further developments.'

4. Further Commission reply, received on 19 December 2007.

'The Commission replied to the petitioner, by letter of 4 April 2007, that his complaint, being too general in nature, failed to substantiate any infringement of the general rules relating to the Structural Funds.

The letter pointed out that in accordance with the principle of subsidiarity, under Article 8 of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, the selection of projects was the sole responsibility of the national management authorities. Accordingly, provided that those authorities complied with the Community principles and rules applicable to the Structural Funds and with the Commission's decisions on intervention, the Commission was unable to take action. The

Commission had proposed that if the petitioner considered the decisions taken by the national management authorities to have harmed him, he could use the national means of redress available to him, which was the only way in which he could obtain compensation.

Further to this reply, the petitioner sent another letter on 20 May 2007 specifying that the projected 'implementation of the urban development and infrastructural programme for District 1 of the municipality of Melissia' was in breach of national legislation as well as of the principle of subsidiarity laid down in Regulations 1260 and 1783/1999 of the European Parliament and of the Council of 12 July 1999 on the European Regional Development Fund. The letter made three complaints:

- about dual financing: Community co-financing concerned essential joint urban works (e.g. pavements, sewers...) for which Greek Law 1337/83 required that property owners or tenants (of buildings or land) in a region classified as urban had to pay a certain amount for such basic infrastructure;
- the Commission should have known, before it granted co-financing, that all the sub-projects relating to this main project had already been completed in 1999;
- the local authorities completed some work on the project 'Environmental planning work on the Melissia torrent and surrounding areas' before obtaining the necessary permission. Since this is a traditional forest and runoff area, specific permission from the special forestry service, archaeological service and town planning service would have been necessary.

In a letter of 14 June 2007 the petitioner stated that some inhabitants of the region and members of environmental protection organisations had contacted the Council of State to request the abolition of the ministerial decision whereby the environmental conditions of this latter project co-financed by the Commission had been approved. According to the petitioner, a work suspension order relating to the said project was then issued pending the final decision of the Council of State.

Further to the letter of 20 May 2007, the Commission contacted the Greek national authorities which confirmed that:

- there was no legal revenue (such as legal imposition of taxes on inhabitants) for the project 'implementation of the urban development and infrastructural programme for District 1 of the municipality of Melissia' and even if there had been, the management authority guaranteed (by considering a whole range of prerequisites) that the amount of Community financing could not be called into question;
- the management authority had already replied to the petitioner, by letter of 8 November 2005, with regard to the preventive and *a posteriori* controls which had been carried out. The outcome of the various inspections had been satisfactory. The control procedure with on-site checks should continue until 2008 and the management authority had decided to include the action in question in regular inspection programmes;

- with regard to the action included in the Attica Operational Programme entitled ‘Environmental planning work on the Melissia torrent and surrounding areas’, the approvals and authorisation required by the competent bodies had been granted and were still valid. In practice, the joint ministerial decision 125497 of 19 December 2006 of the Ministry of the Environment, Town Planning and Public Works and the Ministry of Rural Development mentions the establishment of environmental requirements for the project in question, which are applicable up to 31 August 2016.

The decisions to which the petitioner referred did not therefore concern the project in question and had not been taken into consideration in the action assessment procedure. They most certainly concerned another type of support measure, which was not included in the programme co-financed by the Structural Funds.

Conclusion

Accordingly, on the basis of the information provided by the Greek national authorities, which are in the first instance responsible for implementing and monitoring support measures, the Commission confirmed to the petitioner by letter of 27 September 2007 that it was unable to conclude that there had been an infringement of the rules applicable to the Structural Funds with regard to the projects 'implementation of the urban development and infrastructural programme for District 1 of the municipality of Melissia' and 'Environmental planning work on the Melissia torrent and surrounding areas', both included in the 2000-2006 Attica Operational Programme.'