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REPORT

on the Commission communication to the European Parliament and the European Ombudsman on relations with the complainant in respect of infringements of Community law
(COM(2002) 141 – C5-0288/2002 – 2002/2148(COS))

Committee on Petitions

Rapporteur: Janelly Fourtou

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PROCEDURAL PAGE

By letter of 7 May 2002, the Commission forwarded to Parliament a communication to the European Parliament and the European Ombudsman on relations with the complainant in respect of infringements of Community law (COM(2002) 141 – 2002/2148(COS)).

At the sitting of 1 July 2002 the President of Parliament announced that he had referred the communication to the Committee on Petitions as the committee responsible and the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Legal Affairs and the Internal Market for their opinions (C5-0288/2002).

The Committee on Petitions had appointed Janelly Fourtou rapporteur at its meeting of 20 June 2002.

The committee considered the Commission communication and the draft report at its meetings of 20 March 2003, 24 April 2003 and 30 April 2003.

At the last meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Vitaliano Gemelli, chairman; Roy Perry, vice-chairman; Janelly Fourtou, rapporteur; Ulla Maija Aaltonen (for Eurig Wyn pursuant to Rule 153(2)), Richard A. Balfe, Marie-Hélène Descamps, Christos Folias (for Felipe Camisón Asensio pursuant to Rule 153(2)), Ioannis Koukiadis, Ioannis Marinos, The Earl of Stockton, Christian Ulrik von Boetticher and Stavros Xarchakos.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Legal Affairs and the Internal Market decided on 2 October 2002 and 10 September 2002 respectively not to deliver opinions.

The report was tabled on 7 May 2003.

MOTION FOR A RESOLUTION

European Parliament resolution on the Commission communication to the European Parliament and the European Ombudsman on relations with the complainant in respect of infringements of Community law (COM(2002) 141 – C5-0288/2002 – 2002/2148(COS))

The European Parliament,

- having regard to the Commission communication (COM(2002) 141 – C5-0288/2002¹),
 - having regard to Articles 1 and 6 of the Treaty on European Union,
 - having regard to Article 41 of the Charter of Fundamental Rights of the European Union,
 - having regard to Regulation (EC) 1049/2001 of the European Parliament and the Council on public access to the documents of the European Parliament, the Council and the Commission²,
 - having regard to its resolutions of 16 July 1998 and 15 April 1999 on the annual reports of the European Ombudsman for 1997³ and 1998⁴,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A5-0157/2003),
- A. recalling its resolution of 6 September 2001 concerning the existence and the public accessibility, in the different Community institutions and bodies, of a code of good administrative behaviour⁵,
- B. recalling the European Ombudsman's own-initiative inquiry and the criticisms made by the European Ombudsman when the complaint by Mr P. S. Emfietzoglou against the Macedonian Metro Joint Venture was closed,
- C. whereas the Commission enjoys a discretionary power in relation to its consideration of complaints and there is no question of challenging the Commission's handling of complaints lodged with it; the sole intention is to ensure that individual European citizens are adequately informed concerning the stage reached in the processing of their complaints,

¹ OJ C 244, 10.10.2002, p. 5.

² OJ L 145, 31.5.2001, p. 43.

³ OJ C 292, 21.9.1998, p. 168.

⁴ OJ C 219, 30.7.1999, p. 456.

⁵ OJ C 72E, 21.3.2002, p. 331.

- D. whereas, consequently, it would be appropriate for Community institutions and bodies to publish in consolidated form all their internal rules on administrative procedures,
1. Welcomes this Commission communication to the European Parliament and the European Ombudsman on relations with the complainant in respect of infringements of Community law;
 2. Considers that these provisions uphold the principle of transparency, which is inseparable from good administration, one of the fundamental aspects of European citizenship;
 3. Commends the provision of individual European citizens with adequate information about the stage reached in the processing of their complaints and, by the same token, regards as reasonable the one-year delay within which the Commission must reach a decision and notify the complainants thereof;
 4. Notes that the procedures to consider the various complaints lodged by European citizens with a whole range of Community bodies and institutions are the responsibility of different services, between which there is no coordination; notes that the separate nature of these procedures causes particular difficulties in the case of complainants lodging a complaint with the Commission, and a petition with the European Parliament, concerning the same grievances;
 5. Notes, further, the need to clarify the procedure to be followed in cases of manifest disagreement between the institutions regarding the substance of a complaint, including when Parliament has endorsed a recommendation by the Ombudsman, which has not been recognised as a valid by another institution;
 6. Considers, consequently that is necessary to obtain an interinstitutional agreement which would make it possible to achieve this essential coordination between all the Community bodies and institutions in relation to complaints and petitions, in the interests of Europe's citizens and with a view to ensuring efficient cooperation between Community institutions;
 7. Instructs its President to forward this resolution to the Council, the Commission and the European Ombudsman.

EXPLANATORY STATEMENT

I – Background to the Commission proposal

This communication on relations with the complainant in respect of infringements of Community law is an example of the Commission's commitment to publishing in consolidated form all internal Commission rules governing the procedures applicable to relations with complainants in connection with the infringement procedure.

It follows, in particular, from the European Ombudsman's own-initiative report¹ and the criticisms made by the Ombudsman in connection with the closure of the complaint by P. S. Emfietzoglou concerning the Macedonian Metro Joint Venture².

The Commission is thereby applying Parliament and Council Regulation (EC) No 1049/2001 of 30 May 2001 on public access to European Parliament, Council and Commission documents, as implemented by the provisions set out in the annex to the Commission decision 2001/937/EC of 5 December 2001 amending its Rules of Procedure.

It should be noted that the administrative measures to which the communication relates apply solely to relations between complainants and Commission services in the context of the infringement procedure.

Moreover, the Commission enjoys discretionary powers with regard to assessing complaints and deciding whether or not to commence infringement proceedings and to refer a case to the court. There is no question, therefore, of reconsidering the way in which the Commission handles complaints lodged with it: the aim is, rather, to enable European citizens to be provided with adequate information as to the stage reached in processing their complaints.

II – Assessment of the proposal

We note with satisfaction that the Commission's proposal marks a step in the right direction.

We consider that the administrative measures taken by the Commission as regards the consideration of complaints are particularly welcome. The effect is to allow complainants to be regularly informed of the stage reached in the proceedings. Moreover, we regard the one-year period as reasonable.

The only point which seems to be missing from this communication is the situation when a citizen simultaneously lodges a complaint with the Commission and a petition with the European Parliament. The procedures for the examination of the complaint are completely separate and are handled by different services. We feel it is essential to tackle this problem in order to demonstrate to members of the European public that their concerns are dealt with effectively. We call, therefore, for improved cooperation between the respective Commission and European Parliament services in the case of complaints lodged with both institutions.

¹ Draft European Ombudsman recommendation in the context of the own-initiative inquiry on public access to documents (616/PUBAC/F/IJF).

² 995/98/OV.

We should also like to stress that this problem arises not only in the case of complaints and petitions dealing with the same grievances. The same applies whenever a Community institution takes a decision relating to an individual European citizen (rulings of the European Court of Justice, decisions of the European Ombudsman, etc.). If an individual embarks on several procedures at the same time, it is only logical for the decision in question to be relayed to the other Community institutions to ensure that his case is dealt with as effectively as possible.

III – Conclusions

We welcome, therefore, the proposal for a Commission communication on relations with the complainant in respect of infringements of Community law.

We call, however, for an interinstitutional agreement (as we have done for several years, moreover) to ensure that the procedure for handling complaints is transparently clear to members of the European public.

Close and full cooperation of this kind will certainly make it possible to improve our effectiveness and hence our public standing.