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Ombudsman helps solve EUR 93 000 payment dispute between NGO and the Commission

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The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies. Any EU citizen, resident, or an enterprise or association in a Member State, can lodge a complaint with the Ombudsman. The Ombudsman offers a fast, flexible and free means of solving problems with the EU administration.

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The European Ombudsman, P. Nikiforos Diamandouros, has helped to settle a EUR 93 000 payment dispute between a French NGO “Earth Data Network for Education and Scientific Exchange” (EDNES) and the European Commission. EDNES successfully carried out three EU- funded projects in Russia, but the Commission contested its method of working and asked it to repay EUR 93 000. The Ombudsman considered the repayment order as disproportionate and unfair. The Commission finally followed his recommendation and cancelled the debit notes.

Commission’s repayment order “disproportionate” and “unfair”

EDNES acted as project coordinator in three EU-funded research and technology projects carried out in Russia. All three projects were a success. In 2006, however, the Commission asked EDNES to repay EUR 93 000, mostly in overhead costs (covering, for example, administration and management), because EDNES had subcontracted work to a Russian company in Moscow.

EDNES turned to the Ombudsman, arguing that the recovery of the overhead costs was unfair and 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.

After investigating the case, the Ombudsman concluded that the Commission itself had acknowledged that EDNES acted in good faith

and completed the projects successfully, notwithstanding the difficult conditions prevailing in Russia at the time. He also accepted the complainant’s argument that the Commission services were aware in advance of the subcontracting and had not objected to it. In these circumstances, he considered the Commission’s decision to enforce its claim for repayment to be disproportionate and unfair.

During the investigation, the Ombudsman made several unsuccessful attempts to persuade the Commission to cancel the repayment order. After he issued his critical remark, the Commission cancelled the relevant debit notes. The Ombudsman welcomes the Commission’s decision to change its position.

The Ombudsman’s critical remark in this case is available at:

<http://www.ombudsman.europa.eu/en/cases/decision.faces/en/11228/html.bookmark>