



P. Nikiforos Diamandouros
European Ombudsman

Avich & Kilchrenan Community Council, Argyll
attn Ms Veronica Christine Kay Metcalfe
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Strasbourg, **17 -07- 2013**

Decision of the European Ombudsman closing complaint 1052/2012/KM against the Executive Agency for Competitiveness and Innovation (EACI)

Dear Ms Metcalfe,

On 20 April 2012, you complained, on behalf of Avich & Kilchrenan Community Council, Argyll, Scotland, that EACI had not replied to your letters concerning the "Good Practice Wind" ("GP Wind") project, and had not complied with the 'Aarhus Regulation' in relation to the GP Wind project.

On 25 May 2012, I contacted the relevant service of EACI concerning your complaint. EACI replied by forwarding to me the reply it had sent to you on 7 June 2012. On the same day, I asked you to submit observations on this reply. Before submitting your observations to me, you requested, pursuant to Regulation 1367/2006, that EACI grant you access to the documents produced by it in relation to the GP Wind project, but were told, in a letter of 11 June 2012, that no such documents existed yet. This was because, in accordance with the grant agreement, an assessment could only be made after the Final Report had been formally submitted by the beneficiary of the project.

In your observations of 24 June 2012, you emphasised that there had been a continued failure of EACI to reply to your requests for information in relation to the GP Wind project, and argued that EACI's position could not be reconciled with Article 5(1) of Regulation 1367/2006.

As noted above, EACI has now answered to your letter of 12 January 2012, and thereby settled this aspect of your complaint.

As regards your arguments regarding compliance with the 'Aarhus Regulation', I note that Regulation 1367/2006 applies to Union institutions and bodies and concerns the environmental information which is held by them. Therefore, compliance by national authorities or project beneficiaries with environmental standards or implementation of grant agreements by them is



outside the scope of the said Regulation.

Regulation 1367/2006 does not oblige Union institutions and bodies to ask for or obtain environmental information, but only concerns how they "use" such information once they have received it and as long as they hold it. In the present case, it appears that EACI has gone beyond its strict legal duties by improving the quality of information held by it and making sure that there is a continuous flow of environmental information. I consider that this proactive approach by EACI to transparency is in accordance with principles of good administration.

In its letter, EACI also explained that the documents to which you requested access were not yet available due to the fact that the relevant deliverables had not yet been submitted for final assessment. EACI further explained that it, in accordance with the grant agreement, it only carried out its assessments once it had received the Interim and Final Reports (the latter of which was due at the end of 2012). This reply appears reasonable.

In view of the above, I take the view that EACI has settled the first aspect of your complaint and that there was no maladministration as regards the second aspect. I have therefore closed the case.

Finally, I note that, on the basis of the above information provided by EACI the Final Report should by now have been received. I trust that, if this is indeed the case, EACI will have complied with its duties under Regulation 1367/2006 in this regard, that is, it will have taken all necessary measures so that any environmental information held by it be up-to-date, accurate, comparable and available to the public. You may, therefore, wish to consider making a new application for access.

Yours sincerely,

P. Nikiforos Diamandouros