

The European Ombudsman

COMPLAINT ABOUT MALADMINISTRATION

Please read the section entitled '[How to complain](#)' before filling out this complaint form.

Please continue on a separate sheet if necessary and enclose all the documents necessary to support your complaint.

1. First name: **Svetoslav**

Surname: **Apostolov**

On behalf of (if applicable):

Address line 1: **[confidential]**

Address line 2:

Town/City: **[confidential]**

County/State/Province: **[confidential]**

Postcode: **[confidential]**

Country: **[confidential]**

Tel.: **[confidential]**

Fax:

E-mail: **[confidential]**

2. Against which European Union (EU) institution or body do you wish to complain?

European Parliament	<input type="checkbox"/>	European Investment Bank	<input type="checkbox"/>
Council of the European Union	<input type="checkbox"/>	European Central Bank	<input type="checkbox"/>
European Commission	<input checked="" type="checkbox"/>	European Personnel Selection Office (EPSO)	<input type="checkbox"/>
Court of Justice of the European Communities (*)	<input type="checkbox"/>	European Anti-Fraud Office (OLAF)	<input type="checkbox"/>
European Court of Auditors	<input type="checkbox"/>	European Police Office (Europol)	<input type="checkbox"/>
European Economic and Social Committee	<input type="checkbox"/>	Other Union body (please specify)	<input type="checkbox"/>

(*) Except in its judicial role.

3. What is the decision or matter about which you complain? When did you become aware of it?

Dear Mr. Diamandouros,

I want to submit a formal complaint of the European Commission for non-payment of reimbursement due for an interview that I attended.

The issue is as follows:

On November 29th, 2007, I attended an interview for the vacancy COM/TA/ENV/07/07 - AD5, a position with DG Environment of the European Commission. The interview took place in Brussels, and I live in Germany, about 280 km away from Brussels.

Along with the invitation and instructions for the interview I was sent an excerpt from the "Rules for the reimbursement of travel and subsistence expenses for persons outside the Commission invited to attend a competition, interview or medical examination" (attached hereto for your reference, see [Attachment 1](#)).

According to the instructions I received, I had to fill out two blanks: a legal entities form (http://ec.europa.eu/budget/execution/legal_entities_en.htm) and a financial identification form (http://ec.europa.eu/budget/execution/ftiers_en.htm). These I was to hand over to the secretary of the selection board on the day of my interview. Further, the instructions explicitly stated that, quote, "DG "Personnel and administration" is not organising accommodation or transport in Brussels."

As requested, I filled out the two forms and submitted them on the day of my interview. At this point I must emphasize that **I fulfilled duly all requirements related to the completing of the forms exactly as stated by the forms themselves** as you could see for yourself from [Attachment 2](#), which is a copy of the Financial Identification form and the supplementary document as received by the European Commission.

Along with these forms, I also submitted to the responsible person copies of my return tickets for a part of the route and the original one-way ticket for the rest of the route (namely, the stretch Luxembourg – Sterpenich). The latter I had to purchase on the train from Germany to Brussels on the day of my interview as it turned out that the ticket I have bought in Germany does not cover this stretch of the road.

In relation to the above I must point out that on the way to Brussels I was able to buy only the one-way ticket for the direction Luxembourg → Sterpenich – the conductor on the train explained to me that it was not possible for him to sell me a return ticket or even a one-way ticket for the way back (i.e., Sterpenich – > Luxembourg) for this stretch of the road. Therefore, the original one-way ticket for the direction Luxembourg → Sterpenich was the only evidence I was able to submit and I actually submitted as a proof of my financial expenses in relation to that part of the road.

Having duly fulfilled all requirements and having attended the interview, I expected to receive the reimbursement in a reasonable time.

On 14.12.2007 I sent an e-mail to Mr. Thierry Bigard from the PMO/5 Unit of the European Commission in Luxembourg, whose name was given to the applicants to contact on the subject of reimbursement, asking him what were prospects that the reimbursement would be transferred to my bank account before the week of Christmas and New Year, i.e. by December 21st, 2007.

Since I received neither reply nor the confirmation that my e-mail was read by Mr. Bigard, I repeated my enquiry on 17.12.2007 in order to make sure that the e-mail has reached the recipient (see [Attachment 3](#) – a copy of my second e-mail for your reference). Apparently Mr. Bigard read the two e-mails on December the 17th since I received the read receipts for the two of them bearing that date (see [Attachment 4](#) – the read receipt for the repeated enquiry).

Nevertheless, up until 21.12.2007 I had received neither Mr. Bigard's reply to my question, nor any information as to when the transfer is expected to be done, nor the reimbursement itself.

Therefore, as the next step I contacted Ms. Corinne Henrotte from DG ADMIN of the European Commission as the person responsible for the selection procedure with the same question that I had previously asked Mr. Bigard (see Attachment 5 – my e-mail to Ms. Henrotte).

Unfortunately, as you can see from Ms. Henrotte's reply (Attachment 6 hereto), she could not do anything for me. She further confirmed that the person responsible for the expenses reimbursement is Mr. Bigard.

With respect to the above I had no alternative but to contact Mr. Bigard's superiors. Having that on mind, on 21.12.2007 I sent an e-mail to Ms. Dominique Deshayes, who was listed in the EU Whoiswho directory as the Director of PMO – Office for administration and payment of individual entitlements in Luxembourg. In my e-mail I asked Ms. Deshayes to kindly forward my e-mail to the respective Head of Department (see [Attachment 7](#)).

About a week later, on 26.12.2007, I received an e-mail from Mr. Bigard, informing me of the following, quote (see also [Attachment 8](#) – Mr. Bigard's original reply):

“the bank information data have been blo[c]ked on 21 December by the financial services for the following reason: the financial identification form must have a stamp and a signature of a bank representative. You can also attach a copy of a recent bank statement, but this document has to give all the information required in the financial identification form.”

Mr. Bigard had attached to his communication a copy of the Financial Identification form and the supplementary document in question as received by the Luxembourg office of the European Commission (see Attachment 2).

In my reply of 02.01.2008 to the above e-mail I pointed out the following (for my full reply see [Attachment 9](#), and for the Financial Identification form see [Attachment 2](#)):

1. The Financial Identification form itself states in relation to the bank stamp and the signature of a bank representative and the alternative copy of a bank statement:

It is preferable to attach a copy of recent bank statement, in which event the stamp of the bank and the signature of the bank's representative are not required. (excerpt from footnote number 3 of the submitted by me Financial Identification form, attached hereto for your reference).

By using the words "It is preferable", this footnote clearly encourages the submission of a bank statement copy, favouring it to the bank stamp and representative's signature. Moreover, the footnote indisputably states that a bank statement copy replaces the bank stamp and representative's signature.

2. Further to that, the Financial Identification form itself does not at all pose any specific requirements to the form or the contents of the bank statement – it simply reads “a copy of recent bank statement” (ref. to the attached file). Moreover, the form does not refer to any additional requirements either as to how it should be filled in or to the supplementary documents.

In addition to the above two points, here I must also point out that the Financial Identification form explicitly states that the name filled in under “Account name” must be “**the name or title under which the account has been opened and not the name of the authorized agent.**” (footnote number 1 of the submitted by me Financial Identification form, see [Attachment 2](#)).

On 08.01.2008, while I was away, somebody from the Luxembourg office has called my spouse, whose contact details I had provided in the Financial Identification form, the reason being that the account that I am using is a family account, opened by my spouse. Despite the fact that I have a full authorization to operate this account, in view of the requirement set by footnote number 1 of the Financial Identification form, I entered his details in the Financial Identification form.

The person calling has explained that the reimbursement has been withheld **because the name on the Financial Identification form was not my name.** After my spouse explained to this person what I have already explained about the family account and the other details in the paragraph above, he was asked to send an e-mail of the same content to the Luxembourg office, which he did.

Then, on 10.01.2008, I received an e-mail from Mr. Bigard informing me that, quote: “*we will make the reimbursement as soon as possible.*” (for his full communication see [Attachment 10](#)).

As the reimbursement was still not transferred a week later, my spouse sent an e-mail to the Luxembourg office on 18.10.2008 informing them that the money was still not on the account.

Finally, on 24.01.2008 a part of the reimbursement has been transferred.

You cannot imagine my bewilderment and frustration when I saw that, almost two months after the interview and after more than a dozen communications altogether on the issue, instead of the EUR 145,20 that I was expecting, the European Commission has transferred only EUR 89,80 (see Attachment 11 – a copy of the transfer notification).

Immediately after I discovered that a smaller sum was transferred to me on 28.01.2008, I wrote a complaint to the Luxembourg office (see [Attachment 12](#)).

In my complaint I pointed out the following (for the full text of my complaint see [Attachment 12](#)):

1. I am entitled to reimbursement of the travel and subsistence expenses (the distance between the town where I live and Brussels is about 280 km) (ref. Article 8 (3) of the “Rules for the reimbursement of travel and subsistence expenses for persons outside the Commission invited to attend a competition, interview or medical examination”, as effective of the day of the interview, also attached hereto for your information – see [Attachment 1](#)).

2. In addition to the above, in my e-mail to Ms. Deshayes, Mr. Bigard, Ms. De-Borchgrave-D'Altena and Mr. Arroyo-Redondo of 02.01.2008 (see [Attachment 9](#) hereto) I drew the attention of the recipients to the fact that “*I had to purchase two additional one-way tickets for a part of the road on the train (marked*

accordingly on the respective blank filled-in and submitted in Brussels), and I submitted the one-way ticket for the trip to Brussels together with the rest of my papers". The one-way (single) ticket that I submitted in Brussels itself even read that it was a one-way ticket!

3. All of the above details were explicitly written down in the respective blank that I filled in and submitted in Brussels on the day of the interview.

4. The sum transferred by the European Commission does not cover even my transportation expenses, not to speak of the daily allowance.

I further informed the recipients of the next steps that I would take in case the full reimbursement would not be transferred to my account by the end of the business day on Wednesday (30.01.2008). The date was chosen as by then it would have been exactly 2 (two) months after the interview for which I am to be reimbursed.

In spite of all my good will and efforts to solve this issue through direct negotiations between me and the European Commission (represented by the Luxembourg office in this particular case), instead of receiving the reimbursement or at least a notification from the Luxembourg office that the transfer has been ordered, later the same day (28.01.2008) I received an e-mail signed by Mr. Francois Augendre, Head of unit PMO/5 – Luxembourg, in which he explained to me that, quote (for the full text of his reply see [Attachment 13](#)):

1. *"the sum you received can be detailed as follows:*

- return train ticket Saarlouis Hbf - Trier Hbf 21,20 EUR
- return train ticket Trier Hbf - Luxembourg 8,40 EUR
- return train ticket Sterpenich - Brussels 54,40 EUR
- single train ticket Luxembourg - Sterpenich 5,80 EUR.

- the total price is therefore 89,80 EUR, which corresponds to what you received. You might have noticed on the form you filled that you had to provide the originals of the tickets (or copies for the tickets you had to use for the return travel). We didn't find in your file any copy of the ticket Sterpenich-Luxembourg you now claim. I hope you will understand that we can reimburse travel expenses only when provided with justifying documents. Please send us the original Sterpenich-Luxembourg ticket you used, and you will receive an additional payment of 5,80 EUR."

and

2. *"Regarding the daily allowance, please note that we pay this allowance only when the total duration of the trip covers a period of 24 hours or more (periods of 24 hours, or in the french version of the rules "tranche de 24 heures entières"). This limitation can be understood to help the candidate finance its stay in an hotel when necessary. In your case, the travel took place in less than 24 hours (from 4.40 am to 7.40 pm , as stated in the document provided by yourself "Ihre Reiseverbindung", the last page of your file) leading to no payment of a daily allowance. If something needs to be corrected, please provide us with the details and justifying documents."*

Despite my clarifications regarding the Financial Identification form sent to the Luxembourg office, in his e-mail Mr. Augendre continued to support the thesis that the reimbursement had been delayed because of missing details on the form (see [Attachment 13](#)).

Personally I find that this statement of Mr. Augendre's does not at all correspond to the truth for the reasons outlined above, which I had also previously communicated to the Luxembourg office in my e-mail of 02.01.2008 (see [Attachment 9](#)).

It is probably also worth noting the discrepancy between the information supplied by Mr. Bigard and Mr. Augendre: while Mr. Bigard in his e-mail of 26.12.2007 ([Attachment 8](#) hereto) claims that, quote: "Your personal and financial data have been recorded on 11 December", Mr. Augendre in his e-mail of 28.01.2008 ([Attachment 13](#) hereto) claims that, quote: "We received you reimbursement claim on 4.12.2007".

With respect to Mr. Augendre's interpretation of the "Rules for the reimbursement of travel and subsistence expenses for persons outside the Commission invited to attend a competition, interview or medical examination" regarding the daily allowance that "*we pay this allowance only when the total duration of the trip covers a period of 24 hours or more*" (see [Attachment 13](#)), I would like to point out the following:

1. A careful review of Article 8 (on the subsistence expenses) of the Rules reveals that **the eligibility for contribution to subsistence expenses and the contribution's amount depend entirely on "the distance between the place of residence and the place where the competition, interview or medical examination is held"**.

2. Article 8 (3) the Rules themselves (see [Attachment 1](#)) states the following with respect to the daily allowance of EUR 50, quote:

Where the distance between the place of residence and the place where the competition, interview or medical examination is held is more than 150 km, a flat-rate daily allowance of EUR 50 shall be granted.

The flat-rate daily allowance of EUR 50 shall be granted exclusively for the day or days (i.e. periods of 24 hours) taken up by the competition, interview or medical examination.

It shall also cover expenses incurred as a result of the need to spend a night at the place where the competition, interview or medical examination is held. Candidates who, after the competition, interview or medical examination, cannot return to the place specified in the invitation before midnight shall be entitled to an additional allowance of EUR 50.

3. Further, Article 8 of the Rules **does not require** that the competition, interview or medical examination should take at least 24 hours in order to be eligible for the EUR 50 daily allowance.

4. **The above claim is further confirmed** by the following sentence of the same Article 8 (3):

Candidates who, after the competition, interview or medical examination, cannot return to the place specified in the invitation before midnight shall be entitled to an additional allowance of EUR 50.

This sentence clearly requires that an **ADDITIONAL** daily allowance be paid to candidates who cannot return to the place specified in the invitation before midnight after the competition, interview or medical examination, i.e. to those candidates who cannot arrive back at the specified location on the day (as

defined by the Rules) of the competition, etc., and begin a new day away from the place specified in the invitation.

5. **The latter, in turn, confirms the thesis that the flat-rate allowance of EUR 50 per day is due FOR EVERY DAY spent on the interview, etc., and related travel** from the day of the candidate's departure for the interview, etc., until the day that the candidate has returned to the place specified in the invitation.
6. **I comply with the eligibility criterion for daily allowance of EUR 50** as the distance between my place of residence and Brussels is about 280 km – information that I had communicated to Mr. Bigard from the Luxembourg office for the first time on 14.12.2007. In my case **I only needed ONE DAY for the interview and the related travel**, therefore I am entitled to receive daily allowance for only one day, i.e. EUR 50.

The objective of the definition "*periods of 24 hours*", to which [Mr. Augendre refers in his e-mail](#), is to make clear that, for the purpose of the Rules, a "day" is defined as a period of 24 hours, i.e. a "calendar day", including both the part with daylight and the part without daylight of the day (cf. the third paragraph of Article 8 (3)).

Based on the above analysis of Article 8 of the Rules (see [Attachment 1](#)), I believe that Mr. Augendre's interpretation of Article 8 (3) of the Rules (see [Attachment 13](#)) is incorrect, depriving me of the daily allowance of EUR 50 to which I am entitled.

As far as Mr. Augendre's statement that "*This limitation can be understood to help the candidate finance its stay in an hotel when Necessary*" (see [Attachment 13](#)) is concerned, it can be seen from the above-cited Article 8 (3) of the Rules **that the daily allowance shall ALSO cover expenses incurred as a result of the need to spend a night** at the place where the competition, interview or medical examination is held, **i.e. the main objective (use) of the daily allowance is NOT to cover hotel accommodation.**

Until recently I was a Senior Expert at the Bulgarian Ministry of Environment and Water. Together with my previous employments, I have more than eight years altogether of experience with participating in and organizing national and international events, for which some or all of the participant's expenses were to be covered. My experience covers also two international workshops, co-organized by me and the TAIEX instrument of the European Commission. I have solid reasons to believe I know what the purpose of the daily allowance is.

From my experience I know that the daily allowance is intended to cover the participant's expenses on local transportation and meal on the day/s of the event in the first place, and the coverage of the accommodation expenses is only an optional objective (use) of the allowance.

In relation to Mr. Augendre's statement "*We didn't find in your file any copy of the ticket Sterpenich-Luxembourg you now claim. I hope you will understand that we can reimburse travel expenses only when provided with justifying documents.*" (see [Attachment 13](#)), in my reply of 29.01.2008 (see [Attachment 14](#)) I explained that I bought that ticket on the train from Brussels to Germany, i.e. after

having already submitted all documents requested in Brussels. The reason for that was already explained above here.

Personally I do not understand why this should be an obstacle to reimbursing me for this part of the route as well since the European Commission already has the price for the ticket for this stretch marked on the ticket I used on my way to Brussels.

Nevertheless, in view of the facts that, as Mr. Augendre had stated in his e-mail of 28.01.2008 (see [Attachment 13](#)), the Luxembourg office “*can reimburse travel expenses only when provided with justifying documents*” and that there was a minimal difference in the price of the one-way tickets for the different directions (EUR 0,40), attached to my reply I sent a copy of the one-way ticket for the way to Germany (for the stretch Sterpenich → Luxembourg).

As of the time of preparation of this complaint for submission (19:17 (GMT+0100) on 31.01.2008) I still have not received any reply to my clarifications related to Mr. Augendre’s e-mail that I sent on 29.01.2008 (see [Attachment 14](#)) or any confirmation that the reimbursement transfer has been ordered by the European Commission, while my e-mail has been delivered to their mail server (see [Attachment 15](#)).

When I last checked my bank account this morning, there was no transfer from the European Commission.

4. What do you consider that the EU institution or body has done wrong?

I believe that the European Commission did the following wrong in my case:

- 1) lack of information – nobody from the European Commission even notified me that they believed there was a problem with the documents that I had submitted:** they just “blocked” (as Mr. Bigard explained it in his e-mail of 26.12.2007 – see [Attachment 8](#)) my reimbursement without even warning me of the action taken.
- 2) refusal of information – the person responsible for communication on the subject simply ignored my requests for information.**
- 3) different employees of the European Commission supply me with contradictory information (see above).**
- 4) incorrect procedure – the European Commission substitutes the strict requirements on forms for their unjustified requirements:** after having submitted 4 e-mails to 3 different persons on the same issue, I finally received claim of a problem with my documents while, as already explained above, in fact **there was NO problem whatsoever** with the documents, which had been filled in exactly as required.
- 5) incorrect procedure – the European Commission interprets incorrectly the “Rules for the reimbursement of travel and subsistence expenses for persons outside the Commission invited to attend a competition, interview or medical examination” (see [Attachment 1](#)):** after I made clear that there was no problem with my documents, the European Commission came up with some

incorrect interpretation of Article 8 (3) of the Rules (for the interpretation itself see above and [Attachment 13](#)).

- 6) **unnecessary delay and only PARTIAL reimbursement:** based on the above-mentioned unjustified requirements substitution and incorrect interpretation of the Rules, almost two months after the interview and more than a month since my first enquiry on the subject, and after more than a dozen communications (both e-mails and phone calls) with the respective office, the European Commission not only reimbursed me only for a part of the road but also rejected my claim for the daily allowance to which I am entitled!
- 7) **three days after having made clear to the European Commission that their interpretation of the Rules is incorrect and is in fact depriving me of the daily allowance of EUR 50 to which I am entitled, I still have neither heard anything from the Luxembourg office nor received the missing part of the reimbursement, while my e-mail has been delivered to their mail server (see [Attachment 15](#)).**

5. What, in your view, should the institution or body do to put things right?

Dear Mr. Diamandouros,

In my opinion, the European Commission must pay me the remaining part of the reimbursement to which I am entitled.

However, as already mentioned at the beginning of my complaint, it seems to me that the European Commission simply does not want to pay me the reimbursement due for the interview.

In that relation I am asking for your kind co-operation in this matter, for which I thank you in advance!

6. Have you already contacted the EU institution or body concerned in order to obtain redress?

Yes (please specify)

No

Almost two months after the interview and more than a month since my first enquiry on the subject, I, together with my spouse, have exchanged more than a dozen communications (both e-mails and phone calls) with more than 5 persons on the same issue (see the attachments).

7. If the complaint concerns work relationships with the EU institutions and bodies: have you used all the possibilities for internal administrative requests and complaints provided for in the Staff Regulations? If so, have the time limits for replies by the institutions already expired?

Yes (please specify)

No

Over a period of two months I, together with my spouse, exchanged more than a dozen communications (both e-mails and phone calls) with more than 5 persons on the same issue, and I also submitted a complaint to Ms. Dominique Deshayes – the Director of PMO – Office for administration and payment of individual entitlements in Luxembourg (see the respective attachments).

8. Has the object of your complaint already been settled by a court or is it pending before a court?

Yes (please specify)

No

9. Please select **one** of the following two options **after having read the information in the box below**:

Please treat my complaint publicly

I require that my complaint be treated confidentially

10. Do you agree that your complaint may be passed on to another institution or body (European or national), if the European Ombudsman decides that he is not entitled to deal with it?

Yes

No

Date and signature: 31.01.2008

Svetoslav Apostolov

Complaints to the European Ombudsman (and any annexed documents) are normally dealt with publicly.

"Dealing publicly" with a complaint means that any member of the public may have access to the complaint and its annexes. If the Ombudsman opens an inquiry, the opinion of the institution or body concerned on the complaint, any observations on the opinion made by the complainant, as well as other documents mentioned in Article 14 of the Implementing Provisions (available on the Ombudsman's website) are public documents to which any member of the public may have access on request. The Ombudsman's decisions on complaints are published on his website with the complainant's name removed. Some are also published in full, or in summary form, in hard copy and electronic formats. These publications do not include the complainant's

name or address.

A complainant has the right to request that his or her complaint be dealt with confidentially. If confidentiality is requested, there is no public access to the complaint or to the other documents mentioned above. However, even a confidential complaint must be sent to the Union institution or body concerned, if the Ombudsman begins an inquiry. The Ombudsman's decisions on confidential complaints are published on his website, after the removal of any information which could lead to the identification of the complainant. This information is also removed if the decision is published in full, or in summary form, in a hard copy or electronic format.

Complaints to the Ombudsman may contain personal data relating to the complainant, or to a third party. The processing of personal data by the European Ombudsman is governed by Regulation (EC) No 45/2001 [\(1\)](#). Unless the complainant requests confidentiality, he or she is understood to consent for the purposes of Article 5 (d) of Regulation (EC) No 45/2001 to the Ombudsman dealing publicly with any personal data which the complaint may contain.

[\(1\)](#) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

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