

Complaint : ..... 1821/2008/PB .....  
LO : ..... PB .....  
Date : ..... 19/03/09 .....

FC

**Letter of inadmissibility**

*Brochures :*

- EO**
- Committee on Petitions of the European Parliament**
- OTHER .....**

**Original complaint**  
(Copy the complaint for the EO's file – Send by registered post)

**Transfer of a complaint**

- Letter to Institution + Original of the complaint (Send by registered post)
- Letter to inform the complainant
- (Copy the complaint for the EO's file)

**Opinion Request**

- Letter to inform the complainant
- Letter to President of the Institution
- Copy of the complaint
- (cc : .....

**Observations request**

- Letter to complainant
- Copy of the Institution's opinion
- Annexes

**Further Inquiries / Friendly solution / Draft recommendation** (circle as appropriate)

- Letter to inform the complainant
- Letter to President of the Institution
- Copy of the complaint's observations
- (cc : .....

Direct transmission to Commissioner's cabinet: Yes       If yes, contact person: \_\_\_\_\_  
No

**Decision**

- Original Decision to the complainant
- Letter to President of the Institution
- Copy of the decision in EN
- (cc : .....

**1821/2008/PB concerning Mr Guido Strack and the Commission**

**Case closed on 30 January 2009**

**Reply to further correspondence of 7 February 2009**

The EO opened an inquiry into the following allegations:

- (1) The Commission wrongly denied the complainant the possibility of taking copies, notes or photos from his medical file; and*
- (2) The Commission wrongly failed to address this issue in its decision on the complainant's Article 90(2) complaint.*

In his observations, the complainant furthermore asked the EO to inquire into an allegation that the access he was given to his medical file was incomplete.

The complainant went to court against the Commission after the EO had opened the inquiry. In light of the court case, the EO decided to close his inquiry without assessment of allegations 1 and 2. The EO also concluded that an inquiry into the additional allegation noted above would not be appropriate.

On 7 February 2009, the complainant sent the EO an email in which he asked for the following:

1/ Clarification regarding paragraph 6 in the decision:

*"6. On 22 July 2008, the complainant, a lawyer, was invited to submit his comments. On the same date, he suggested to the Commission that it could suspend the preparation of its opinion in the present inquiry, pending the Ombudsman's decision on its above view."*

In his email, the complainant states that he does not have any record of a suggestion, on his part, to the Commission regarding a suspension of its preparation of its opinion.

The complainant's request for clarification is fully warranted. In the course of our two-level language checking, the above paragraph was in fact wrongly changed. It was not the complainant, but the EO, who suggested to the Commission that it could suspend its preparation of the opinion. PB regrets not having caught this mistaken change in the text. The complainant should be duly informed and receive an apology.

2/ The complainant would like to receive a more specific reference to certain text passages mentioned in paragraph 18 of the decision:

*"18. When the Ombudsman opened the present inquiry, he concluded that the complainant could not have reasonably expected to find the (main) document, namely, the medical report by a Dr. H. in his medical file. This conclusion was based on correspondence between the Commission and the complainant preceding the latter's visit to the Commission in March 2006. When properly*

*read, the correspondence made it clear that the complainant could not have reasonably expected to find the report in his medical file. Disregarding the question of whether the report should have been in his medical file in March 2006, it is therefore possible to conclude that there are insufficient grounds to accept his claim."*

The complainant should receive, in the EO's letter, the following passage of the admissibility summary of his present complaint, which contains the following (emphasis added):

*In relation to the above issues, the Commission's decision on the complainant's Article 90(2) complaint, dated 21 November 2006, dealt exclusively with the question of the report of Dr. Helmer. On that issue, the decision referred to the fact that the complainant had been informed, by e-mail of 27 February 2006, that "as discussed Friday morning, the Medical report is not yet finalised since Doctor HELMER is still awaiting Dr Hirsch's report. Doctor HIRSCH will contact you to arrange an appointment during the month of April". In light of this message, the decision concluded that "Therefore, it was unambiguously clear that Mr. STRACK could not expect a finalised report of Dr. HELMER on 2 or 3 March 2006. Had the complainant his travel to Brussels depended on the finalised report [sic.], he had had the possibility to assure this by making contact with PMO after March 2006. Thus, the allegation of Mr. STRACK that his travel to Brussels took place under false pretences and hence he would suffer financial damages is unjustified."*

3/ The complainant would like to receive the following document, referred to in paragraph 20 of the EO's decision: *Commission's General implementing provisions on the conduct of administrative inquiries and disciplinary procedures* of 28 April 2004 (C(2004) 1588

The EO's letter should enclose a copy of that decision.

**PB 19 March 2009**

*Jim Linton  
20/3/09*