

Decision in case 13/2016/PL on the European Commission's failure to take action to deal with inappropriate staff behaviour

Decision

Case 13/2016/PL - Opened on 28/01/2016 - Decision on 30/11/2018 - Institution concerned European Commission (Settled by the institution) |

This case concerned the behaviour of a staff member who was managing a EuropeAid project in an EU Delegation. The complainant, an expert working on the project, accused the staff member of undermining his work, reputation and, ultimately, the project.

The Ombudsman's inquiry included an inspection of the European Commission's file. The inspection revealed that the staff member and a colleague had tried to have the complainant dismissed without following the formal procedure. They had also made inappropriate comments about him.

The responsible Commission Director responded by writing to the two staff members to set out, in detail, her concerns about their behaviour and to remind them of their obligations as public servants.

While the Ombudsman believed that the Commission could have acted sooner, she found the Director's written response to the staff members to be adequate and closed the case.

Background to the complaint

1. This case concerned the behaviour of a staff member who was managing a EuropeAid project in an EU Delegation.. The complainant was the main expert who had been hired by the consultancy implementing the project.
2. In June 2014, the complainant learned that a staff member in the Delegation was trying to have him removed from his post. He stated that the staff member had informally approached the national authorities, who had received the EU funding for the project, as well as the complainant's employer, to ask for his dismissal.
3. The complainant wrote to the Head of the Delegation contending that the staff member was



not following the established procedure to have experts dismissed. The Head of the Delegation did not reply. The staff member himself asked the complainant not to write directly to the Head of the Delegation as he was not familiar with the project.

4. The complainant was not dismissed and remained the main expert until the project ended in November 2015.

5. When the project was about to end, the complainant wrote to the new Head of the Delegation stating that the staff member had tried to undermine his work by wrongly rejecting expenses and reports that should have been approved.

6. The complainant did not receive a reply and turned to the Ombudsman.

The inquiry

7. The Ombudsman opened an inquiry into the Commission's failure to take action in this case, in particular in relation to the alleged attempt to have the complainant dismissed and to undermine his work on the project. The Ombudsman also looked into the complainant's claim for rejected expenses to be paid.

8. As a first step, the Ombudsman asked the Head of the Delegation to reply to the complainant's unanswered email. The Ombudsman's inquiry team then inspected the Commission's file on the project. This included the communications exchanged between the Delegation's staff and the complainant and internal correspondence about the complainant and the project.

Arguments presented to the Ombudsman

9. The complainant stated that the staff member had failed to respect the framework contract and had tried to have him dismissed by informally approaching the national authorities and the complainant's employer. Since the staff member had failed to have him removed from the project, he had tried to undermine the complainant's work by refusing to settle expenses or to approve the reports he was responsible for. This behaviour damaged the complainant's reputation.

10. The Commission said that it did not have a contractual relationship with the complainant, only with his employer, the consultancy hired to implement the project. The Commission was therefore not responsible for issues arising in relation to the complainant's contract. As regards the rejection of certain expenses submitted by the consultancy, the Commission noted that this was because they did not meet the necessary eligibility requirements.

The inspection



11. The file inspected in this case confirmed that two individuals, one working in the Delegation and one in the Commission's Directorate-General for International Cooperation and Development (DG DEVCO), had - without following the formal procedure - sought to have the complainant removed from the project.

12. The internal correspondence between the two staff members showed that they had discussed using the formal procedure, but preferred to avoid it. In the emails, the two staff members expressed personal opinions about the complainant that appeared to partly motivate their actions.

13. The two staff members then initiated the formal procedure to have the complainant dismissed. However, their proposal was rejected internally and ultimately dropped.

The Ombudsman's assessment

14. The Commission missed at least two opportunities to react in a timely manner to the concerns that the complainant tried to bring to its attention. He received no reply from the Head of the Delegation to the first of his two emails in which he raised the issue of his potential dismissal. Only after the Ombudsman got involved, did he get a reply to the second of his emails which had been addressed to the new Head of the Delegation.

15. The staff members' conduct fell far short of the standards expected of EU civil servants and was not in line with the Ombudsman's Public Service Principles which include objectivity, respect for others, integrity and transparency [1]. The fact that they approached the complainant's employer to seek his dismissal, without following the formal procedure, and expressed a preference for avoiding the formal procedure is concerning. It is, on the other hand, reassuring that the formal procedure was ultimately used and that, on this basis, the proposal to have the complainant dismissed was rejected.

16. After the contentious exchanges were brought to the Commission's attention in the context of the Ombudsman's inspection, the responsible Commission Director responded by writing to the staff members to set out her concerns. She reminded them of their statutory duty to respect and uphold the principles of good administrative behaviour. She noted the need to apply public service principles in any kind of communication (internal/external and informal/formal) and to use appropriate wording. She further noted the need to avoid statements based on personal feelings and to ensure the right to be heard at every stage in a decision-making procedure.

17. The Ombudsman considers that the Commission has now responded in an adequate and proportionate way to the misconduct identified. The Commission has thus settled the matter.

18. As regards the complainant's claim for the rejected expenses to be paid, the Ombudsman found no evidence to support the complainant's assertion. As the Commission stated, the expenses did not meet the necessary eligibility requirements. The Ombudsman notes that the



consultancy, which was the contracting party, did not challenge the Delegation's decision to reject these expenses.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusions :

The Commission has settled the matter of inappropriate staff behaviour.

There was no maladministration by the Commission on the matter of expenses.

The complainant and the European Commission will be informed of this decision.

Emily O'Reilly

European Ombudsman

Strasbourg, 30/11/2018

[1] Public service principles for the EU civil service, available at:
<https://www.ombudsman.europa.eu/en/publication/en/3510> [Link].