

## Decision in case OI/2/2018 on how the EU Delegation to Malawi treated external consultants in the context of an EU-funded project on population growth

Decision

**Case** OI/2/2018/TM - **Opened on** 10/04/2018 - **Decision on** 17/12/2018 - **Institution concerned** European Commission ( No maladministration found ) |

The case concerned how the EU Delegation to Malawi treated external consultants, who had been contracted to draft a report on how to address population growth in the country. The complainant alleged that staff members at the Delegation had treated them disrespectfully, and had tried to interfere with their work.

The Ombudsman inquired into the issue and found the Delegation's position to be reasonable.

The Ombudsman thus closed the inquiry with a finding of no maladministration.

### Background to the complaint

1. The complainant [1] was employed as an expert by a consortium that was carrying out a project funded by the European Commission on population growth in Malawi. The complainant and another expert were supposed to produce a report with recommendations on *"measures to address population growth both in existing and future EU funded programmes"* [2] .

2. In accordance with the work plan, the two experts carried out a field mission in Malawi, where they worked with the EU Delegation to Malawi (the 'Delegation') [3] . The Delegation organised meetings with the experts, and provided input and comments to the draft report. The Delegation subsequently rejected the final report because it considered that the report failed to provide specific and realistic recommendations.

3. The complainant turned to the Ombudsman, arguing that Commission staff members at the Delegation had treated the experts disrespectfully, and tried to interfere with their work.

### The inquiry



4. The Ombudsman opened an inquiry into how the Delegation treated the complainant during the 'the field mission' to Malawi. The Ombudsman received the Delegation's reply and, subsequently, the complainant's comments.

## Arguments presented to the Ombudsman

5. **The complainant** said that there was a short time laps between the signing of the contract and the start of the field mission. The duration of the field mission has been a point of contention with the Delegation.

6. He contended that Commission staff members, working at the Delegation, had behaved in a hostile manner to him and the other expert, and had tried to disrupt the field mission. For instance, a briefing meeting with the Delegation started one hour later than planned, without any explanation for the delay. The chair of the meeting, the 'Head of Cooperation' at the Delegation, left unexpectedly while the meeting was still ongoing.

7. The Delegation attempted to change the scope of work from what was set out in the terms of reference ('ToR'). It had prevented the experts from meeting and interviewing relevant external stakeholders. Staff members at the Delegation had treated the experts in a controlling manner, contrary to the applicable rules [4] .

8. **The Delegation** replied that it had investigated the complainant's allegations and rejected them. After having examined the relevant correspondence and minutes of meetings, the Delegation concluded that the experts were treated in a respectful manner. The Delegation did its utmost to ensure that the assignment was clear to the experts.

9. The Delegation postponed the starting date of the field mission, as requested by the consortium to allow for a better organisation of the field mission.

10. According to the Delegation's records, the briefing meeting started as scheduled. Ahead of the meeting, the Delegation informed the experts that *"the meeting is not expected to take more than approximately 30 minutes"*. The chair had to leave the meeting after 30 minutes because of another conflicting engagement. The EU Programme Manager in charge of the meeting stayed throughout the meeting.

11. The consortium had agreed that the project should take 15 working days (and not 18 working days, as suggested by the complainant) and this was reflected in the contract and the 'consultancy agreement', signed by the complainant.

12. The Delegation rejected the complainant's claim that the Delegation tried to interfere with their work and change the scope of the terms of reference the ToR. It stated that it had advised the experts to focus on specific priorities considering the limited amount of time allocated to the project. The Delegation said that it had not prevented the experts from interviewing stakeholders or carrying out field visits, *"but merely indicated that these other stakeholders were*



*to be consulted only to the extent possible within the given time frame” .*

**13.** It added that, in accordance with the applicable rules [5] , the ‘project manager’ provided guidance to the experts to attempt to clarify the scope of the report.

## The Ombudsman's assessment

**14.** The Ombudsman finds the explanations in the institution's reply to be adequate, reasonable and in line with the applicable rules. The complainant has not provided any arguments to suggest to the contrary.

**15.** As a result, the Ombudsman has decided to close the case with a finding of no maladministration.

## Conclusion

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

**There has been no maladministration by the European Commission.**

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

Marta Hirsch-Ziembińska

Head of Inquiries and ICT - Unit 1

Strasbourg, 17/12/2018

[1] The Ombudsman decided to carry out this inquiry on her ‘own initiative’. This is because the complainant is not an EU citizen or resident in an EU Member State, and thus the Ombudsman is not able to deal with the complaint directly, according to the Statute of the European

Ombudsman.

[2] Specific Terms of Reference, Section 2.4 Required outputs.

[3] As the complaint concerned a project funded and managed by the Commission, and



including staff members of the Commission, the inquiry is against the Commission, and not against the European External Action Service (EEAS), which is responsible for the overall management of EU Delegations in third countries. However, the reply to the complaint was provided by the EEAS.

[4] The complainant referred to Article 1 of the General Provisions of the Consultancy Agreement, signed between the experts and the consortium.

[5] The Delegation referred to Article 3.2 of the Global Terms of Reference *“it is the role of the Specific Contract Project Manager [a staff member of the Delegation] to oversee the implementation of the individual assignment and to liaise with the Framework Contactor [the consortium].”*