



Decision in case 1016/2016/CEC on the European Commission's refusal to make a payment under a grant agreement concerning university associations in Latin-America

Decision

Case 1016/2016/CEC - **Opened on** 17/11/2016 - **Recommendation on** 15/10/2018 - **Decision on** 18/03/2019 - **Institution concerned** European Commission (Recommendation agreed by the institution) |

The complainant, the European University Association, representing over 800 universities in Europe, complained to the Ombudsman about the Commission's refusal to pay certain of its costs incurred under the ALFA-PUENTES project. The contested costs amounted to 83,289.89 EUR.

The Ombudsman found that the Commission had not provided sufficient justifications for its refusal and that its decision to refuse to pay the disputed amount constituted maladministration. She recommended that the Commission pay the unpaid amount to the complainant.

The Commission replied that it had reviewed the case in detail and had contacted the complainant for comments and clarifications. On this basis, it had decided to proceed with the payment of 83,289.89 EUR to the complainant.

The Ombudsman commends the Commission for having taken the necessary corrective measures in this case and welcomes the fact that the contested amount is now paid. The Ombudsman closes the case.

Background to the complaint

- 1.** The complaint was brought by the European University Association (EUA), a non-governmental organisation representing over 800 universities in Europe [1] .
- 2.** The EUA was the coordinator of a consortium of 22 Latin-American and European university associations for the project ' ALFA-PUENTES : *Building Capacity of University Associations in fostering Latin-American regional integration* (ALFA III)'. The ALFA-PUENTES project received funding from the EU under a grant agreement and was implemented from 28 March 2011 to 27 March 2014.
- 3.** After the project had been concluded, the complainant and the Commission exchanged correspondence on the final payment to be made by the Commission, but failed to agree on



the exact amount.

4. In February 2015, the Commission requested **an external audit** of several ALFA projects, including the one in question here. Following the audit of the project, the Final Financial Audit Report of 3 November 2015 (hereinafter: 'Audit Report') found that:

- *"The Financial Report presents fairly, in all material respects, the actual expenditure incurred and revenue received for the Project for the period from 28 March 2011 to 27 March 2014 in conformity with the applicable Contractual Conditions; and*
- *The Project funds provided by the European Commission have, in all material respects, been used in conformity with the applicable Contractual Conditions."*

5. As the Audit Report concluded that the " *balance of funding payable by the Commission* " was 84.472,43 EUR, the complainant asked the Commission to pay this balance. The Commission refused to do so [2] on the basis that the cost overruns incurred in the project involved spending which was not necessary, reasonable, justified or in accordance with the principle of sound financial management.

6. The complainant thus turned to the Ombudsman, who opened an inquiry into the Commission's refusal to make a payment of 83,289.89 EUR to the complainant [3] .

The Ombudsman's preliminary finding

7. The Ombudsman made the **preliminary finding** that the Commission had not provided a sufficient basis for its decision to disregard the Audit Report and to refuse to make a payment of 83,289.89 EUR to the complainant.

8. Although the Commission was not bound to act on the Audit Report, the Ombudsman considered that a decision which departs from audit findings must be properly and convincingly supported by relevant facts and arguments. The Ombudsman's position was that the Commission had not done so. In this regard, the Ombudsman also noted that the project in question, which was complex and involved many partners across several Latin-American countries, was delivered successfully and within budget. More generally, she considered that the ALFA-PUENTES programme was of significant importance to the EU [4] .

9. Based on this preliminary finding, the Ombudsman invited the Commission to provide a fuller justification for its decision to refuse the payment in question. In the absence of a response from the Commission to her preliminary finding the Ombudsman proceeded with her inquiry on the basis of the information already available.

The Ombudsman's recommendation

10. The Ombudsman remained unconvinced by the explanations provided by the Commission as to why it considered that the cost overruns involved spending which was not necessary, reasonable, justified or in accordance with the principle of sound financial



management. The Ombudsman noted in this respect that the Commission had confirmed that the complainant had met the overall project objectives and carried out the main activities and that, although the complainant had overspent on certain budget headings, it had kept the expenditure within the overall budget of the project.

11. Furthermore, the Ombudsman understood from the Audit Report that the project had been largely implemented in a satisfactory manner and in line with the principles of sound financial management. Therefore the Ombudsman did not agree with the Commission's statement that the Audit Report had identified serious financial and internal control issues in the management of the project.

12. The Ombudsman concluded that the Commission had not justified its decision to depart from the external auditor's finding that the complainant should receive a final payment of 84,472.43 EUR (adjusted subsequently to 83,289.89 EUR). She therefore made the following recommendation:

The European Commission should make a payment of 83,289.89 EUR to the complainant .

13. In its opinion on the recommendation, the Commission stated that it had reviewed the case in detail, and had contacted the complainant for comments and clarifications. On the basis of the Ombudsman's recommendation and the complainant's replies, the Commission decided to proceed with the payment of 83,289.89 EUR. The Commission stated that it informed the complainant accordingly on 4 January 2019, and made the payment on 8 February 2019.

14. The complainant expressed its satisfaction with the outcome.

The Ombudsman's assessment after the recommendation

15. The Ombudsman welcomes the Commission's acceptance of her recommendation. She commends the Commission for having taken the necessary corrective measures in this case and welcomes the fact that the contested amount is now paid.

Conclusion

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

By agreeing to pay the complainant 83,289.89 EUR, the Commission has accepted the Ombudsman's recommendation.

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

Emily O'Reilly



European Ombudsman

Strasbourg, 18/03/2019

[1] www.eua.be

[2] The Commission made an additional payment of 1.182,54 EUR to correct an error. Thus, the disputed amount now was 83,289.89 EUR.

[3] More detailed information can be found in the Ombudsman's recommendation:
<https://www.ombudsman.europa.eu/en/recommendation/en/105277> .

[4] For example, the 2017 San Salvador Declaration of the European Union, Latin America and the Caribbean (EULAC) Academic and Knowledge Summit states: "EUA, as a representative institution of European universities, alongside the main Latin American and Caribbean rector and University associations, must constitute a permanent platform for collaboration, taking as precedent and utilising structural projects, such as ALFA-PUENTES."

https://ec.europa.eu/research/iscp/pdf/declaracion_de_san-salvador_en.pdf