

Decision in case 2196/2018/PL on the European Union Office in Kosovo's request to replace an expert in a project

Decision

Case 2196/2018/PL - Opened on 17/01/2019 - Decision on 01/04/2019 - Institution concerned European External Action Service (No maladministration found) |

The complainant in this case was dismissed from an EU project by his employer, at the request of the EU Office in Kosovo (EUO). The complainant disagreed with the reasons given by the EUO to justify its request.

The Ombudsman inquired into the matter and found that the EUO provided comprehensive and reasonable explanations. Thus, the case was closed, finding no maladministration.

Background to the complaint

1. The complainant worked as a Team Leader for a consultancy commissioned to carry out a project for the European Union Office in Kosovo (EUO).
2. A few months into the project, the EUO asked the contractor to replace the complainant (and another key expert) citing the poor quality of the deliverables, his inability to manage the team, and the dissatisfaction of the Kosovar authorities with his performance. The contractor replaced then the complainant.
3. The complainant wrote to the EUO contesting its reasons for requesting his replacement. Given the EUO's failure to provide a substantive reply to his concerns, the complainant turned to the Ombudsman in December 2018.

The inquiry

4. The Ombudsman opened an inquiry into i) the EU Office in Kosovo's failure to reply to the complainant's letter contesting the grounds for his replacement, and ii) the EUO's request to the contractor to replace the complainant as a Team Leader.



The EU Office in Kosovo's failure to reply

5. The complainant contended that the EUO did not reply to his letter of 26 November 2018, challenging the reasons for his replacement as Team Leader.

6. The Ombudsman's inquiry team invited the EUO to reply to the complainant. The EUO replied noting that, contrary to what the complainant had stated, it had already answered his letter, advising him to raise his concerns directly with the contractor since the complainant had no contractual relationship with the EUO. However, following the Ombudsman's invitation, the EUO provided a further reply to the complainant's letter, addressing in detail each of his concerns.

7. Therefore, the Ombudsman finds this aspect of the complaint settled by the institution.

The EU Office in Kosovo's request to replace the complainant

Arguments presented to the Ombudsman

8. The complainant argued that the EUO mismanaged the project, created an atmosphere of mistrust and exercised undue pressure on the team. He contended that the reasons given by the EUO to his employer to justify the request to replace him were unfounded.

9. In reply, the EUO gave detailed explanations regarding the issues it had with the complainant's performance and management of the project. The EUO stated that it did not question the complainant's professional qualifications, and acknowledged that he could not be held personally responsible for certain issues. However, as the Team Leader, he had the overall responsibility for the proper and timely implementation of the programme and should have taken the necessary measures to avoid or solve the problems in question.

10. In his comments to the EUO's reply, the complainant acknowledged that the EUO had provided "a thorough explanation of the background" to the decision to replace him. However, he considered that the reasons given by the EUO were "based on biased perceptions and, in some cases, incorrect information."

The Ombudsman's assessment

11. In the absence of a contractual relationship with an expert, the EU institution or body that requests an expert's removal from an EU-funded project, should still provide fair and objective grounds to justify such a request, inform the expert in question of its intention, and give him or her the possibility of submitting his or her comments. [1]



12. In this case, the EUO expressed to the contractor, on a number of occasions, its dissatisfaction with the complainant's performance as a Team Leader, and duly justified its request to replace him.

13. On 26 November 2018, the complainant sent to the EUO comments on each of the issues raised by the EUO. Following the Ombudsman's inquiry, the EUO replied to this letter in detail. In sum, it appears that the EUO and the complainant agree on the fact that there were problems with the timely and agreed implementation of the project, but disagree on who should be held responsible.

14. It is the Ombudsman's view that EU institutions or bodies have a broad discretion in assessing whether the performance of experts working on projects is satisfactory. In this case, the EUO's explanations are comprehensive and reasonable. Since the complainant has not put forward any arguments that may indicate that the EUO made a manifest error of assessment, the Ombudsman finds no maladministration as regards this aspect of the complaint.

Conclusions

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

There was no maladministration in the European Union Office in Kosovo's request to replace the complainant.

The complainant and the European Union Office in Kosovo, through the European Commission, will be informed of this decision.

Lambros Papadias

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Strasbourg, 01/04/2019

[1] See case 1515/2012/RT