

Decision in case 349/2019/MMO on the European Commission's alleged mismanagement of an EU funded environmental project in Turkey

Decision

Case 349/2019/MMO - Opened on 18/06/2019 - Decision on 26/09/2019 - Institution concerned European Commission (No maladministration found) |

The case concerned an environmental project funded by the European Union in Turkey. The complainant was employed to work on the project but he left early as he considered that there were shortcomings in its implementation. He subsequently claimed that he was not paid for two months work. He tried to raise those issues with the European Commission but received no substantive response.

In the course of the Ombudsman's inquiry, the Commission replied to the complainant. The complainant found the reply to be reasonable. The Ombudsman concluded that the Commission had taken concrete action to ensure the sound implementation and effective monitoring of the project. It had also looked into the matter of the complainant not being paid.

The Ombudsman closed the inquiry finding that there was no maladministration.

Background to the complaint

1. The complainant is a Dutch citizen. In early 2016, he was employed as a key expert [1] in the EU funded project “ *Technical assistance for strengthening the National Nature Protection System for Implementation of Natura 2000 Requirement s*” [2] in Turkey. The objective of the project was to protect and enhance Turkey's natural habitats and biodiversity [3] . The complainant and his family moved from the Netherlands to Turkey so that he could fulfil his assignment.

2. According to the complainant, the project was particularly ambitious when it was designed and tendered. However, the implementation of the project, which started in 2015, was very challenging due to the political situation in Turkey.

3. The complainant left the project in the summer of 2017 as he was unhappy with how it was being implemented. He was not paid for his work on the project in May and June 2017.



4. On 11 October 2018, he wrote to the EU Delegation in Ankara, Turkey (the Delegation). He also lodged a complaint with the Commission's Directorate-General for International Cooperation and Development (DG DEVCO). In those letters, he set out the shortcomings he had identified.

5. As he did not receive a substantive reply to his letters, he turned to the Ombudsman in February 2019.

The inquiry

6. The Ombudsman opened an inquiry with a request to the Commission to reply to the complainant's letters in order to, *first*, address his allegations concerning the flawed implementation of the project and, *second*, explain if it could help him resolve the matter of his unpaid remuneration.

7. In the course of the inquiry, the Ombudsman received a copy of the Commission's reply to the complainant and, subsequently, the complainant's comments on the Commission's reply.

Arguments presented to the Ombudsman

8. The **complainant** says that it is unacceptable that substantial EU funds are disbursed while the Commission has no mechanism in place to guarantee that they are used efficiently and effectively. In his view, this leads to three related issues: (i) projects deliver sub-standard outcomes; (ii) funds are wasted and (iii) EU citizens, such as himself, leave their home countries to help implement those projects but may suffer, in the absence of a support mechanism. In his case, the responsible Turkish ministry had refused to sign his last two time sheets and therefore he had not been paid for May and June 2017.

9. The complainant claims that he has repeatedly tried to contact the project administrators, the project management team in Ankara and the EU Delegation to Turkey but to no avail.

10. The **Commission**, for its part, states that the Turkish authorities responsible for the project have been entrusted with the 'indirect management' [4] of EU funds. They thus assume full responsibility for their actions and are held accountable for those actions to the Commission in any subsequent audit or other investigation, which may take place.

11. The Commission further states that it has established mechanisms to ensure the sound implementation and sufficient monitoring of indirectly managed EU funded projects with the lowest possible level of risk to the EU budget. Those mechanisms include the following: monitoring and reviewing the design and reliability of national systems set up to implement EU assistance in beneficiary countries; supervising, monitoring, assessing and following-up programmes through, for example, on-the-spot checks, sectoral and programme-level



monitoring committees and thorough follow-up of audits; performing audits of a sample of projects.

12. In this case, the Delegation took immediate action to address the complainant's concerns. It sent a letter to the contracting authority to investigate the issues raised and propose corrective measures. It also asked the contracting authority to provide regular updates as regards implementation and carried out stringent monitoring.

13. The Commission pointed out, however, that it is not responsible for the day-to-day management of individual contracts under the project. It is not a party to the contract concluded between the responsible Turkish authority, which is the Central Finance and Contracts Unit, and the 'contractor' [5] . It does not have any contractual relations with any of the experts employed by the contractor either. Therefore, the Commission cannot intervene in disputes arising between those parties.

14. The Commission therefore advised the complainant to contact the contractor that directly employed him. In parallel, the Commission said, it would inform the CFCU of the concerns raised in the complainant's e-mails.

The Ombudsman's assessment

15. It is unfortunate that neither DG DEVCO nor the Delegation answered the complainant's letters raising alleged shortcomings in the implementation of the project before he turned to the Ombudsman.

16. Having said that, the Ombudsman is now satisfied that, in its reply to the complainant, the Commission addressed all the issues that he had raised. The Commission's reply is reasonable and comprehensive. The complainant himself seems to find the Commission's position reasonable.

17. The Commission in its reply sets out clearly how indirectly managed EU funded projects are run and explains in concrete terms the mechanisms it has in place to ensure effective monitoring of EU funds. It also describes the specific action it took to address the complainant's concerns as regards the implementation of this project.

18. Concerning the complainant's unpaid remuneration, the Commission tried to be helpful by advising the complainant to get in contact with the contractor that had employed him. In parallel, the Commission said that it would inform the responsible Turkish authority of the matter. Regrettably, the Commission cannot be of more help to the complainant in this respect but it must act according to the rules governing the project.

19. In view of the above, the Ombudsman finds that there was no maladministration in this case.



Conclusion

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

There was no maladministration by the European Commission.

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

Emily O'Reilly

European Ombudsman

Strasbourg, 26/09/2019

[1] Key Expert 2: Systematic Conservation Planning and Natura 2000 (Deputy Team Leader).

[2] Project ID number: EuropeAid/134319/IH/SER/TR

[3] Turkey was the 'beneficiary country' and the project beneficiary was the Turkish Ministry of Forestry and Water Affairs.

[4] The project in question is managed under the 'Indirect Management with Beneficiary Countries' (IMBC) mode (see Section 2.2 of the Practical Guide to Contract Procedures for EU External Actions (PRAG) (2018 version). The Commission refers, in particular, to Section 2.2.4 thereof stating that the role of the Commission and its subsequent intervention under this management mode is "*limited to checking whether the conditions for EU financing have been met. In no case will this intervention aim at compromising the principle according to which these contracts are drafted under the national legislation and concluded only by the contracting authority from the partner country*".

[5] That is the entity chosen by the CFCU to achieve specific results for the implementation of the project, for instance to establish the technical structure to designate Natura 2000 sites in Turkey.