

Decision in case 1315/2018/LM on how the European Commission handled a complaint about how the national agency of Cyprus manages the Erasmus+ Youth Programme

Decision

Case 1315/2018/LM - Opened on 21/09/2018 - Decision on 20/11/2019 - Institution concerned European Commission (No maladministration found) |

The complainant is the president of two organisations that run Erasmus+ youth programmes in Cyprus. He complained to the European Commission about the behaviour of the Cypriot national agency, in charge of implementing the Erasmus+ programme at national level. In his view, the Commission did not investigate his complaint properly and he therefore turned to the Ombudsman.

The Ombudsman found that the European Commission had handled the complaints reasonably and in line with its role under the Erasmus+ Regulation. The Ombudsman therefore closed the case with a finding of no maladministration.

Background to the complaint

1. The complainant is the president of two organisations that run EU funded youth programmes in Cyprus. The organisations receive EU grants to implement Erasmus+, which is an EU programme in the field of education, training, youth and sport. At national level, the Erasmus+ programme is promoted and implemented by national agencies. The national agencies also act as a link between the EU, that is, the European Commission, and participating organisations at local, regional and national level.

2. In November 2016, the complainant turned to the European Commission about the Cypriot Erasmus+ national agency (the national agency). He argued that, in the implementation of various projects, his organisations repeatedly encountered problems in their contacts with the national agency. The problems included, among other things, delayed payments and delays in finalising projects, as well as hostile behaviour, superfluous audits and lack of replies to e-mails.

3. In February 2017, the Commission replied to some of the complainant's concerns and stated that it would monitor the progress with the national agency on the remaining concerns. The



Commission stated that it would take the necessary measures to investigate possible discriminatory behaviour and irregularities by the national agency.

4. The complainant turned to the Ombudsman in July 2018, arguing that the Commission had failed to take appropriate action with regard to the issues complained about. In his view, this has allowed the problematic situation to get worse.

The inquiry

5. The Ombudsman opened an inquiry regarding the measures taken by the Commission to address the complainant's concerns.

6. In the course of the inquiry, the Ombudsman received the reply of the Commission on the complaint and, subsequently, the comments of the complainant in response to the Commission's reply.

Arguments presented to the Ombudsman

The complainant's arguments

7. The complainant argued that the national agency had a bullying and hostile attitude towards his organisations. The national agency also had considerable delays in the processing of final reports and in payments, in violation of the grant agreements. The Commission had accepted staff shortages as a justification for these delays. However, the complainant contended that being under-staffed does not justify a violation of legal obligations.

8. The complainant argued that the national agency had audited almost all of his projects, while on average audits are performed in 10% of projects only. Some of the audits were systemic checks, which means that the national agency deliberately chose to audit projects implemented by his organisations. According to the complainant, some of the checks were not justified and the national agency's final findings following one of the systemic checks did not take into account the observations submitted by the complainant's organisations. Furthermore, the audits are very time consuming and disruptive for his organisations' daily work.

9. The complainant also argued that some of the volunteers did not receive the training to which they were entitled. Furthermore, the national agency systematically failed to respond or to respond in a timely manner to e-mails from the complainant's organisations.

10. The complainant contended that the Commission did not investigate his concerns properly. The Commission relied on the reply from the national agency and never contacted him to seek clarifications on his allegations.



The Commission's arguments

11. The Commission has a monitoring and supervisory role over national agencies, that is, it monitors and assesses the national agency's performance and compliance with the applicable rules, including the timeliness of payments to beneficiaries [1] . The Commission does supervisory and monitoring visits to national agencies. The Commission carried out a supervisory visit to the Cypriot national agency at the end of 2015. It did not find any unfair or unequal treatment of the applicants for EU grants.

12. The Commission cannot intervene in disputes between the national agencies and the beneficiaries regarding the interpretation and application of grant agreements, to which the Commission is not a party. Complaints about the behaviour of a national agency must be addressed to the competent national authority [2] .

13. The Commission assessed the complainant's allegations of fraud but concluded that it could not forward the case to the European Anti-Fraud Office (OLAF) because the allegations were not sufficiently substantiated and lacked a financial impact on the EU budget. The Commission asked the complainant to provide concrete evidence of fraud, but the complainant did not reply.

14. The Commission stated that the national agency had made considerable efforts to remedy the delays it had encountered in assessing the beneficiaries' final reports. The delays that the complainant referred to were mainly due to technical problems with a new IT tool and lack of staff at the end of 2015 and beginning of 2016. Following the supervisory visit at the end of 2015, the Commission made recommendations to the national agency. The Independent Audit Body of Cyprus and the national authority monitored the implementation of these recommendations. In 2017, the Commission again found delays in the handling of final reports and it made another recommendation. The national agency eventually solved the problem. In 2018, there was only one delay by the national agency in a project implemented by the complainant's organisation. In an audit report submitted to the Commission in October 2018, the national authority confirmed that the national agency had dealt with the delays and that the national authority would monitor timeliness of payments more closely.

15. Regarding training of volunteers, the Commission said that the national agency has been subcontracting the organisation of training to an external body since March 2017. The national agency communicates the dates of the training to volunteers in due time and all the volunteers receive the training that they are entitled to.

16. The Commission considers that the national agency checks grant beneficiaries in line with the applicable rules. The audits of the complainant's organisations were not superfluous, nor could they be characterised as bullying. The organisations represented by the complainant are among the chief recipients of Erasmus+ grants. It is therefore normal that they are subject to many audits. In any case, the audits were not as many as the complainant claimed. Most of the checks were selected on a random basis. Some were risk-based checks and some systemic checks. One of the systemic checks was done because the national agency had received



several complaints from volunteers about one of the complainant's organisations. The Commission explained in detail the circumstances under which the systemic check was carried out. It concluded that the check was necessary to ensure good quality of the project implementation and the well-being of the volunteers.

17. The Commission pointed out that neither the national agency, nor the Commission had received any complaint from volunteers alleging inappropriate behaviour of the staff of the national agency. Nor has the national agency received complaints regarding the communication with beneficiary organisations or participants. The Commission found no evidence of the national agency having behaved inappropriately or that there were systemic problems in the communication with beneficiary organisations and participants.

The Ombudsman's assessment

18. The Ombudsman investigates complaints that concern the administrative work of the *EU institutions and bodies* [3] . The Ombudsman's review in this case is thus limited to examining whether the European Commission handled the complaint against the national agency reasonably and in accordance with principles of good administration. The Ombudsman cannot review the actions of the national agency or evaluate conflicting evidence on any disputed facts.

19. According to the Erasmus+ Regulation, the management and supervision of the Erasmus+ programme is primarily done at national level. The national agency is primarily responsible for supervising grant beneficiaries, to make sure that the grant is used as intended and in compliance with EU rules [4] . The Commission shall review the national management and control *systems* for the Erasmus+ programme [5] and it is responsible for the *supervisory* checks of programme actions [6] . However, the management of the Erasmus+ programme is monitored and supervised by the national authority [7] .

20. In this context, the explanations provided by the Commission regarding how it followed up on the concerns raised by the complainant are entirely reasonable. The Commission has followed up on the national authority's monitoring of the delays in payments. The Commission has also sought clarifications on the training offered to volunteers and it has directly verified how many, and what kind of, audits the national agency has performed, as well as whether the audits were justified. There is nothing to suggest that the Commission has not fulfilled its supervisory role under the Erasmus+ Regulation, leaving the primary monitoring and supervision to the Audit Body of Cyprus and the national authority.

Conclusion

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

There was no maladministration by the European Commission in how it handled the complaints about the Cypriot national agency for Erasmus+.



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

Emily O'Reilly

European Ombudsman Strasbourg, 20/11/2019

[1] According to Article 27(4), 29 and 31 of Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing “Erasmus+”: the Union programme for education, training, youth and sport and repealing Decisions No 1716/2006/EC, No 1712/2006/EC and No 1298/2008/EC (the Erasmus+ Regulation), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1288&from=EN> [Link]

[2] The national authority designates the national agency and carries out controls and audits of the national agency.

[3] See Article 228 of the Treaty on the Functioning of the European Union.

[4] Article 31(3) of the Erasmus+ Regulation.

[5] Article 29(6) of the Erasmus+ Regulation.

[6] Article 31(2) of the Erasmus+ Regulation.

[7] Article 27(8) of the Erasmus+ Regulation.