

Decision in case 842/2020/KR on the European Commission's decision to suspend a company that offers courses on the Erasmus+ 'School Education Gateway' platform

Decision

Case 842/2020/KR - Opened on 19/06/2020 - Decision on 08/10/2020 - Institution concerned European Commission (No maladministration found) |

The case concerned the 'School Education Gateway', an online platform for school education that is funded by Erasmus+, the EU's programme to support education, training, youth and sport in Europe. The complainant is the owner and manager of an education and training provider, which offered courses on the platform.

The European Commission, which is responsible for the programme, suspended the complainant's company after it had established that the complainant's company had repeatedly violated the platform's terms and conditions.

The Ombudsman inquired into the matter and found that the Commission's actions were reasonable and proportionate. She therefore closed the inquiry with a finding of no maladministration.

Background to the complaint

1. The case concerned the 'School Education Gateway' [1] , an online platform for education providers and teachers, which is funded under Erasmus+, the EU's programme to support education, training, youth and sport in Europe [2] . Among other things, the platform provides a 'catalogue' of courses targeted at teachers' professional development. Course participants can leave reviews of and rate courses.
2. The complainant is the owner and manager of an education and training company that offers courses on the platform.
3. On 26 March 2018, European Schoolnet [3] , which administers the platform, in agreement with the Commission, issued a warning to the complainant's company that it had breached the terms and conditions of the platform by "*manipulating the listings*". In particular, it was



concerned that he was removing courses that received negative reviews and ratings, and reposting them under different names. The Commission indicated that, should further breaches occur, it would have to re-evaluate the situation.

4. On 5 December 2019, the Commission informed the complainant that it was temporarily withdrawing some of his rights as a user of the platform, due to further and repetitive breaches of the terms and conditions. This suspension had immediate effect and was to last until 31 December 2020.

5. On 6 December 2019, the complainant asked the Commission to review the decision. He stated that he did not have all the information he needed to defend himself fully, but that the suspension decision, if confirmed, would be excessive and disproportionate.

6. On 14 December 2019, the complainant created a new profile on the platform for a branch of his company.

7. On 20 December 2019, the Commission replied to the complainant confirming his suspension, as he had not provided any new information that would enable it to reconsider its decision. The Commission also noted that, by creating a new organisational profile on the platform, which the Commission subsequently blocked, the complainant had sought to circumvent the suspension. The Commission stated that should the complainant attempt this again, it would permanently withdraw his rights as a user of the platform.

8. The complainant continued to contest the decision and wrote to different individuals in the Commission over the subsequent months. However, he had still not received any substantive response by May 2020.

9. On 15 May 2020, the complainant turned to the Ombudsman.

The inquiry

10. The Ombudsman opened an inquiry into the Commission's decision to suspend the complainant's company from the platform and whether the Commission had given him a fair hearing.

11. The Ombudsman's inquiry team inspected the Commission's file on the case and the evidence provided in the complaint.

Whether the Commission gave the complainant a fair hearing

Arguments presented to the Ombudsman



12. The Commission said that it had given the complainant clear reasons for its decision to suspend him from the platform for breaching the terms and conditions. It had given him sufficient details about the issues on which its decision was based, without giving specific details that could compromise the course participant that had raised the concerns.

13. The Commission said it had given the complainant two weeks to submit observations if he did not agree with the decision. The observations that he subsequently submitted indicated that he had understood the context of and reasons for the Commission's decision.

14. The complainant argued that after the suspension, the Commission had taken his company's profile offline, which meant he could no longer access the participants' ratings linked to the related issues. The Commission had then refused to give him a copy of the evidence in its possession. The complainant argued that this amounted to a breach of his "*right to a precise and detailed defence*". The complainant asked for access to the specific evidence on the breaches of the terms and conditions identified by the Commission.

The Ombudsman's assessment

15. The Ombudsman notes that the complainant was warned that manipulating listings was not permitted under the platform's terms and conditions in March 2018. It was furthermore made clear to him that his company's activities would be monitored and that the situation would be re-evaluated should further evidence of breaches of the terms and conditions of the platform emerge.

16. The Ombudsman also notes that the Commission gave the complainant the opportunity to contest the decision to suspend him from the platform by inviting him to submit observations, within two weeks, in case he disagreed.

17. The Ombudsman moreover notes that the Commission gave reasons for its decision to suspend the complainant from the platform. It gave a clear description of the evidence it had for the complaint's breach of the terms and conditions.

18. In conclusion, the Ombudsman considers that the Commission respected the complainant's right to defend himself following its decision, and that it did so while protecting the rights of others by not divulging their personal data.

Decision to suspend the complainant from the platform

Arguments presented to the Ombudsman

19. The Commission stated that it suspended the complainant's company because it had been



systematically “ *manipulating listings* ”. The first evidence of this breach of the terms and conditions [4] of the platform had emerged prior to March 2018, when the Commission first warned the complainant. The Commission also referred to evidence of other suspicious activity concerning the complainant’s listings, including potentially fabricated positive reviews and falsely attributed positive reviews. [5] [6] Lastly, the Commission referred to online comments and emails from the complainant, which were judged to be aggressive and threatening.

20. The complainant argued that the decision to suspend his company was excessive and disproportionate. He claimed that the allegations related to a subset of the company’s advertised courses, whereas the suspension concerned all of the course pages on the platform. Regarding his alleged use of “ *aggressive and threatening* ” language, the complainant argued that this was in response to reviews that he considered false or misleading.

21. The Commission informed the Ombudsman that, while it adhered to its opinion and the suspension decision, it had shortened the suspension by almost six months because, in the meantime, the platform’s course rating and review system had been revised. This revision made it technically impossible to manipulate reviews and ratings.

The Ombudsman's assessment

22. Having reviewed the evidence in the Commission’s file, the Ombudsman finds it was justified in reaching the conclusion that the complainant breached the platform’s terms and conditions.

23. The Commission first warned the complainant in 2018, and suspended his company from the platform only after subsequent breaches of the terms and conditions. In light of the nature of the breaches, the Ombudsman considers that the decision to suspend the complainant’s company from the platform temporarily was reasonable and proportionate.

24. The Ombudsman also notes that the complainant did not contest that he threatened to take legal action against course participants. This might indeed be understood as an effort to dissuade persons from giving his company negative reviews even if a negative review was warranted.

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 .



Rosita Hickey Director of Inquiries

Strasbourg, 08/10/2020

[1] <https://www.schooleducationgateway.eu/> [Link]

[2] More information on Erasmus+: https://ec.europa.eu/programmes/erasmus-plus/about_en [Link].

[3] European Schoolnet operates under contract of the 'Education, Audiovisual and Culture Executive Agency' (EACEA), an EU executive agency.

[4] According to the 4th paragraph of the platform's 'Acceptable Use Policy' "*it is not allowed to impersonate any person or entity, or falsely state or otherwise misrepresent themselves*".

[5] In addition to removing course listings with negative reviews, the Commission claimed it has evidence of potentially fabricated positive reviews, originating from the same Internet Protocol address in the same country as the complainant's company, and the attribution of a positive review to a course participant who would not have left a positive review (alleged impersonation).

[6] According to the 5th paragraph of the Acceptable Use Policy, "*it is not allowed to manipulate the listings or any parts of them (including titles, description, metadata, dates, contact information, etc.) in any way that may mislead readers or conceal relevant information from them, including providing any false or*

distorted information to improve the visibility in the search results, or submitting/prompting false reviews or ratings."