

Preliminary findings of the European Ombudsman in the above cases on how the European Commission dealt with the impact of the COVID-19 crisis on the work of researchers participating in the EU-funded Marie Skłodowska-Curie Actions

Correspondence - 18/12/2020

Case 1242/2020/SF - Opened on 02/10/2020 - Decision on 01/07/2021 - Institution concerned European Commission (No further inquiries justified) |

Case 1380/2020/SF - Opened on 02/10/2020 - Decision on 01/07/2021 - Institution concerned European Commission (No further inquiries justified) |

Ms Ursula von der Leyen

President

European Commission

Dear President,

I am writing to inform you of my preliminary findings, following my inquiry into the above complaints. The complainants are two researchers recruited under Marie Skłodowska-Curie Actions (MSCA) who, due to the COVID-19 crisis, could not continue the research work foreseen under the respective grants.

This letter sets out my preliminary findings; the full assessment underpinning these findings can be found in the annex.

My inquiry has focused on how the Commission communicated with beneficiaries, such as universities, that received grants under the MSCA. Those communications focused on the measures beneficiaries could take to address the impact of the COVID-19 crisis on their projects and the work of the researchers recruited to carry out the work on those projects.

I acknowledge the flexibility the Commission has shown and the genuine efforts made so far to work with the beneficiaries to find solutions for many MSCA researchers that were impacted by the crisis. I appreciate that this situation is unprecedented and has required ingenuity and novel



approaches to guide beneficiaries so that individual researchers would not feel abandoned. However, regrettably no solutions could be found to date for the two complainants.

There may be many other MSCA researchers in similar situations, in particular those who have not contacted the Commission either directly or through the beneficiaries. It is also likely that many more researchers are now affected by the latest COVID-19 restrictions, with their research work curtailed.

With this in mind, I would like to ask the Commission to consider providing the research community with a dedicated online platform through which they can raise problems they are facing due to COVID-19 restrictions. This will enable the Commission to understand what the problems are, so that you can continue your efforts to work with grant beneficiaries to find dedicated solutions for those researchers.

I fully appreciate that there are budgetary constraints and that any solutions proposed by the Commission to support these researchers have to be made within the legal framework of MSCA grants. The measures the Commission has taken so far are based on the principles of equality and transparency and are those the Commission deems possible within this legal framework. This should of course be the case and I would urge you, within this budgetary and legal framework, to continue in your efforts to find solutions for all MSCA researchers whose work was affected by the COVID-19 crisis and to encourage grant beneficiaries to avail of these solutions.

I note, for instance, that it is possible, in exceptional and duly substantiated emergencies, to provide funding without an open call for proposals and that the Commission has relied on this exception to provide additional funding to projects dedicated to finding solutions to the COVID-19 pandemic. I would kindly ask you to consider whether this exception could be applied to other projects where beneficiaries can show a duly substantiated emergency. I appreciate how resource-intensive this would be and that it should be, first and foremost, for beneficiaries to make the request and to substantiate the emergency that would allow for additional funding. However, as I recognise above, the Commission has sought to take unprecedented action in this and other areas to address the range of issues that COVID-19 has given rise to. As such, I know that you will give this issue, of great importance to the research community, your full attention.

I would be grateful to receive your reply as soon as possible and by 31 March 2021 at the latest.

Thank you in advance for your continued efforts in this area.

Yours sincerely,

Emily O'Reilly



European Ombudsman

Strasbourg, 18/12/2020

The Ombudsman's preliminary findings in her joint inquiry into complaints 1242/2020/SF and 1380/2020/SF

Background to the complaints

1. The Ombudsman received two complaints concerning the European Commission's decision not to extend funding for those carrying out research under the EU-funded Marie

Skłodowska-Curie Action (MSCA) following the impact of the COVID-19 crisis on the work of researchers.

2. The MSCA is an EU-funded research fellowship programme, which is managed by the EU's Research Executive Agency (REA). It provides grants for all stages [1] of researchers' careers and in all domains of research. REA [2] signs a grant agreement with the project partners (known as 'beneficiaries' [3]). This grant agreement sets out the maximum amount of funding the project can receive from the Commission. The grant covers the project partners' 'institutional costs' [4] and staff costs for the researchers they recruit [5].

3. Under the grant, the project partners are required to sign a separate recruitment agreement [6] with the researchers and use the staff costs to pay them. The project partners have to inform the recruited researchers of their rights and obligations and of the main points of the grant. Neither the Commission nor REA is a party to this separate agreement or has any other direct contractual relationship with the researchers.

4. The complainants considered that the measures the Commission put in place to deal with the impact of the COVID-19 crisis on researchers were insufficient, as they did not enable them to continue their research. They claimed that despite the Commission's assurance that solutions had been found for a majority of researchers, many of them were still left without support. The complainants also raised concerns that the COVID-19 crisis had disproportionately affected female researchers.

5. A group of MSCA researchers also started an online petition asking the Commission for paid extensions. In addition, the Marie Curie Skłodowska Alumni Association [7] launched a survey [8] (MCAA survey) to evaluate how the COVID-19 crisis had affected the researchers and what additional solutions could be found for them.

The inquiry

6. The Ombudsman opened an inquiry into how the Commission communicated with the project partners that received grants under the MSCA, and the researchers recruited to carry out the related projects, about the options available to them, where the work on their research projects



was affected by the COVID-19 crisis.

7. In the context of the inquiry, the Ombudsman's inquiry team met with representatives of the Commission and REA. The Commission and REA also provided the Ombudsman with documents showing how they had communicated with beneficiaries about the issues raised in the complaints.

The Ombudsman's preliminary assessment

8. The Commission provides project partners with information packages at the beginning of a project, which they should make available to the researchers they recruit. These information packages explain the researchers' rights [9] and obligations. They also provide links to a model grant agreement with explanations, other helpful online resources and list several contact points in case researchers have questions or need clarifications. The Ombudsman thus considers that, before the start of the COVID-19 crisis, there was sufficient general information available, and support given, to project partners and researchers.

9. In the context of the COVID-19 crisis, the Commission contacted project partners already at the end of March 2020, drawing their attention to possible measures they could take to address the situations of researchers affected by the crisis. It asked them to continue running the projects and paying the researchers, even if the researchers could not work due to COVID-19 restrictions. The Commission also published these measures online in its response to the petition by MSCA researchers, and explained where they could find further information or assistance. The Commission set up a specific FAQ page on the implications of COVID-19 for researchers, which it has updated twice so far.

10. The Ombudsman finds that the Commission fully informed the project partners of the possible measures they could take, in accordance with the MSCA grant agreements, to support researchers whose work was impacted by the COVID-19 crisis. However, the Ombudsman has some concerns that, despite all the different information provided, researchers were not fully aware of the possibilities and limits of MSCA grants. The Ombudsman also notes that, while the Commission drew the attention of project partners to these possible measures, it never explained to the research community why it is not possible to grant paid extensions or emergency funding.

11. After the Commission had analysed the results of the MCAA survey, it contacted those project partners whose researchers stated in the survey [10] that they were not satisfied with the measures proposed or considered that the support and the guidance they had received did not fully address the problems they faced. The Ombudsman notes that, in its letter, the Commission encouraged project partners to step up their communication with their researchers and encourage them to raise their concerns. It urged the project partners to make themselves familiar with the different possible measures they could take to address the problems of researchers, in particular by reallocating unused institutional costs to cover expenses related to the COVID-19 restrictions. In this way, solutions were found for many researchers. Regrettably, however, no solution was found for the two complainants in this case. The Ombudsman considers that it would be useful to publish the outcome of this survey and encourages the Commission to do so.



12. It seems however, that researchers who did not inform the Commission directly of their difficulties as well as those affected by the latest COVID-19 related measures, may still be without a solution. The complainants stated that several of their MSCA fellows have informed [11] them of their difficulties and the lack of support. These researchers did not contact the Commission, as they either did not know how to, the project partners asked them not to, or they feared negative consequences for their research careers. With this in mind, the Ombudsman will write to the Commission President to ask the Commission to consider providing a dedicated online platform through which these researchers can raise the problems they are facing due to COVID-19 restrictions. This would enable the Commission to continue its efforts in working with the project partners to find solutions.

13. The Ombudsman notes that the Commission has exceptionally increased the budget for some grants. These grants are dedicated to help find solutions to the COVID-19 pandemic and were possible due to the exceptional and duly substantiated emergency [12] that the COVID-19 crisis itself constituted. While additional funding can exceptionally be awarded without an open call for proposals, the legal framework does not provide for a general budget increase for ongoing grants. Rather, grants must be awarded through an open and transparent call for proposals and all project partners must be treated equally. [13] Therefore, any measures the Commission takes in response to the impact of COVID-19 on MSCA projects must be provided to all of them equally. The Ombudsman understands that launching a new open call for proposals for all those affected by the COVID-19 crisis may no longer be possible and could be considered as unequal treatment by those who were granted only unpaid extensions and whose projects have ended.

14. The information provided in the course of the inquiry shows that the REA 'project officers' in charge of the complainants' projects also tried to find solutions for the complainants. They answered the questions one of the complainants raised and explained, in general terms, why a paid extension is not possible. They also contacted one of the complainant's project partners and, on several occasions, drew the attention of the relevant coordinator [14] and supervisor to the possibility of pooling their unused institutional costs to support the complainant for some extra months. Regrettably, the project partners rejected this proposal.

15. The Ombudsman finds that, overall, the Commission and REA took appropriate action to communicate which measures could be taken under the MSCA grants to help researchers affected by the COVID-19 crisis. They provided guidance to project partners and made available relevant information to the researchers. They satisfactorily informed beneficiaries what measures they could take in support of the recruited researchers. That having been said, the Ombudsman will write to the Commission President to urge the Commission to make one final effort to seek to resolve the issues faced by the research community. Specifically, it would be helpful if the Commission could examine whether the exception, referred to in paragraph 13 above, could be applied to other projects where beneficiaries can show a duly substantiated emergency. It should be, first and foremost, for beneficiaries to make the request and to substantiate the emergency that would allow for additional funding.



16. Finally, while the Ombudsman has not been made aware of peer-reviewed evidence that the COVID-19 crisis has disproportionately affected female researchers, she considers this an important issue and will - in her decision in this case - encourage the Commission to assess this matter further.

[1] From doctoral candidates to highly experienced researchers.

[2] On behalf of the Commission

[3] Mostly universities, research centres and companies established in a Member State of the European Union

[4] Institutional costs consist of the project partner's research, training and networking costs, as well as management and other indirect costs.

[5] Staff costs consist of a monthly living, mobility and family allowance and are directly linked to the duration of the project.

[6] An employment contract or similar. This contract must provide social security rights for the researchers.

[7] The MCAA is a global network of current and past researchers who took part in projects under the MSCA programme.

[8] <https://www.mariecuriealumni.eu/form/survey-covid-19-impact-msca-projects> [Link]

[9] Researchers must be recruited under an employment contract (or equivalent) with full social security coverage

[10] Or let the Commission know through other channels

[11] The complainants started to collect the various experiences of their fellow researchers during the COVID-19 crisis. Within short time, 25 researchers contacted them to share their personal experience.

[12] Article 195 of the Financial Regulation 2018/1046 states that grants may be awarded without a call for proposals in exceptional and duly substantiated emergencies. Every exception has to be duly and individually justified.

[13] These principles are set out in Article 188 of the [Financial Regulation \[Link\]](#) 2018/1046 and include among others, 'equal treatment', 'transparency' and 'non-retroactivity'.

[14] The coordinator is the main contact point between REA and the project partner in this



grant.