



Decision of the European Ombudsman in the above case on how the European Commission handled a conflict between beneficiaries of EU funding under the Erasmus+ programme

Decision

Case 329/2021/TM - Opened on 25/05/2021 - Decision on 25/05/2021 - Institution concerned European Commission (No maladministration found) |

Dear Mr X,

On 16 February 2021, you submitted a complaint to the European Ombudsman on behalf of Asociatia GEYC against the European Commission. Your complaint is about how the Commission responded to issues you raised concerning the final payment in a project financed under the Erasmus+ programme [1] .

The Erasmus+ Programme is implemented through ‘indirect management’ [2] . This means that the Commission is responsible for the overall management of the programme. However, the Member States, through their national agencies, are responsible for the budget implementation. It is the national agencies that sign the grant agreements. Once the project has been finalised and approved, the national agency transfers funding to **the coordinator of the project** . Then, the coordinator is obliged to transfer the corresponding funds to **the project partner organisations** [3] .

Your organisation participated in a project as a partner organisation. The grant agreement was concluded between the project coordinator and the national agency. Following the successful completion of the project, the national agency transferred the final payment to the coordinator, which then did not transfer the corresponding funds to the partner organisations. You raised the issue with the national agency, which, in your view, failed to take appropriate action.

You then turned to the European Commission. You asked the Commission to ensure proper management of the programme and that EU funds are spent according to the purpose envisaged. You also asked the Commission to supervise the national agency and to ensure that it has put in place mechanisms to guarantee sound financial management of the programme. You would like the Commission to provide clearer guidance to national agencies in cases such as this and to ensure that the situation does not arise in the future.

After a careful analysis of all the information provided with the complaint, we find **no**



indication of maladministration by the European Commission.

In its correspondence with you, the Commission has explained its role in the management of the Erasmus+ programme. What the Commission said is correct. It said that it is not a contractual party to the grant agreement. Based on the grant agreement [4], the national agency has an obligation to transfer the amount to the coordinator once the project has been finalised and accepted. The payment of the balance to the coordinator discharges the national agency from its payment obligations. The coordinator of the grant has the obligation to transfer the share of the funds received from the national agency to the project partners [5]. This matter is to be settled between the coordinator and partner organisations. Therefore, the Commission reiterated its advice to seek a legal remedy at national level. More generally, the Commission recommends that partner organisations enter into internal agreements to regulate their respective responsibilities in case of disputes. The Ombudsman notes that the Commission has no obligation or means to monitor that each individual partner organisation is paid.

At the same time, the Commission is bound by the principle of 'sound financial management' and therefore needs to ensure that EU funds are used for their intended purpose. In the context of Erasmus+, the Commission is required to ensure that Member States have put in place adequate safeguard mechanisms to prevent fraud and irregularities [6]. In this regard, a national *authority* has the primary responsibility for the proper management of EU funds transferred by the Commission to the national *agency* [7]. The Commission is responsible for the 'supervisory controls' with regard to proper budget implementation under Erasmus+, which means that it supervises the general functioning of the programme. However, it is not the role of the Commission to intervene in individual disputes.

There is nothing in this case to suggest that the Commission has failed its responsibility in terms of supervisory control.

In addition, despite its limited possibilities to intervene in individual cases, the Commission acted by forwarding your complaint to the competent national agency for follow-up and it requested the national agency to take appropriate action. The Commission continued to monitor the situation and liaised with the national agency throughout. We note that in January 2021, the national agency informed you that "[the project coordinator] *is no longer an Erasmus+ beneficiary, and no future applications from the organisation will be progressed*", which means that the national agency has taken action to protect EU funds.

On the basis of the above, we find that the Commission gave you appropriate advice and engaged on the matter to the extent possible given its role in the implementation of Erasmus+. We appreciate your frustration with the situation. However, the Commission's position that it cannot help you any further is reasonable.

In light of the above, the Ombudsman has closed the case.

We appreciate that you will be disappointed with the outcome of this case but we hope that you will find the above explanations helpful.



Yours sincerely,

Tina Nilsson

Head of the Case-handling Unit

Strasbourg, 25/05/2021

[1] More information about the Erasmus+ Programme is available at:
https://ec.europa.eu/programmes/erasmus-plus/about_en

[2] The European Commission handles the overall management of the programme. The Commission provides funding to the National Agencies, who use these funds to manage the programme's "decentralised" activities. More information is available at:
https://ec.europa.eu/programmes/erasmus-plus/about/how-is-it-managed_en

[3] According to provisions of the grant agreement.

[4] In accordance with Article I.4.7 of the grant agreement.

[5] In accordance with Article I.4.8 of the grant agreement.

[6] Article 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 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC, available at: EUR-Lex - 02013R1288-20181005 - EN - EUR-Lex (europa.eu) .

[7] Article 27(12) of Regulation 1288/2013.