



Decision in case 1046/2021/LM on how the European Commission handled a request for review of the Research Executive Agency's assessment of a project proposal under Horizon 2020

Decision

Case 1046/2021/LM - **Opened on** 27/07/2021 - **Decision on** 27/07/2021 - **Institution concerned** European Commission (No maladministration found) |

Strasbourg, 28/07/2021

Complaint 1046/2021/LM

Subject of case: How the European Commission handled a request for review of the Research Executive Agency's assessment of a project proposal under Horizon 2020

Dear Mr X,

On 3 June 2021, you submitted a complaint to the European Ombudsman concerning how the European Commission dealt with your request for review of the legality of the Research Executive Agency's (REA) decision on the evaluation of your project proposal under the Horizon 2020 programme [1] .

You argue that the Commission should have taken a position on the substantive arguments that you raised in your review request such as that REA ignored the role of one of the partners in the consortium in its evaluation of the criterion "impact". You also argue that the Commission should have decided to fund your project, instead of referring it back to REA for re-evaluation.

After a careful analysis of all the information you have sent us, I regret to inform you that the Ombudsman finds no maladministration by the European Commission [2] .

The Commission has carried out the review of REA's decision in accordance with its role. The appeal procedure under Article 22 of Regulation 58/2003 [3] allows the Commission to review the legality of a decision taken by an agency but it does not empower the Commission to change that decision [4] . The Commission can verify whether the agency followed the relevant procedures when taking its decision, but the Commission cannot make a substantive re-evaluation of the project, substituting its own assessment with that of the experts. In this case, it was therefore not the role of the Commission to assess whether a



substantive element, such as the participation of a particular partner in the consortium, should have given the project a higher score.

In your case, the Commission annulled REA's decision. It was then for REA to take the necessary measures to comply with the Commission's decision [5] . It was therefore not for the Commission to select your project for funding. If you believe that there are shortcomings in how REA has implemented the Commission's decision, you may submit a new complaint to the Ombudsman.

We understand that this decision will disappoint you. However, we hope you find these explanations helpful.

Yours sincerely,

Tina Nilsson

Head of the Case-handling Unit

[1] [...]

[2] Full information on the procedure and rights pertaining to complaints can be found at <https://www.ombudsman.europa.eu/en/document/70707>

[3] Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes is available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003R0058&qid=1627305545861>

[4] Judgement of the General Court of 22 May 2019, *Ertico — ITS Europe v. European Commission* , case T-604/15, paragraph 30, available at https://curia.europa.eu/juris/document/document.jsf?text=uphold*&docid=214369&pageIndex=0&docla

[5] Under Article 22(4) of Regulation 58/2003.