

Decision on how the Executive Agency for Small and Medium-sized Enterprises (EASME) dealt with a Horizon 2020 funding proposal for the Enhanced European Innovation Council Accelerator Pilot (case 2097/2021/FA)

Decision

Case 2097/2021/FA - **Opened on** 09/02/2022 - **Decision on** 15/07/2022 - **Institution concerned** European Innovation Council and SMEs Executive Agency |

The case concerned how the Executive Agency for Small and Medium-sized Enterprises (EASME) dealt with a proposal for funding under the Enhanced European Innovation Council (EIC) Accelerator Pilot.

The complainant took issue with how EASME evaluated its proposal as well as with the lack of information received on the evaluation and possibilities for review. The complainant was also concerned with the delay by EASME in replying to his request that it review its decision.

In the course of the inquiry, the European Innovation Council and SME Executive Agency (EISMEA), which succeeded and replaced EASME, explained why there was a delay in the review procedure. The Ombudsman considered that the explanation was reasonable. The Ombudsman also found that EASME had provided sufficient information to the complainant on the evaluation and possibilities for review. Nevertheless, the Ombudsman found that the feedback provided by EASME to the complainant was not sufficient, and did not allow a meaningful review of the evaluation of the proposal. The Ombudsman noted that, in the context of the new EIC Accelerator programme, EISMEA appears to provide more detailed feedback to applicants on the evaluation of their proposals.

The Ombudsman thus considered that no further inquiries were justified in this case and closed the inquiry.

Background to the complaint

1. The complainant is a company that submitted a proposal for funding under the Enhanced European Innovation Council (EIC) Accelerator pilot [1] , which was part of the Horizon 2020 programme and managed by the Executive Agency for Small and Medium-sized Enterprises



(EASME).

2. EASME rejected the complainant's proposal because it did not receive a sufficient overall score in the evaluation phase. It provided the complainant with its scores for each 'award criteria', and a qualitative assessment for each sub-criteria that consisted of the single word "insufficient".

3. The complainant requested that EASME review the evaluation of its proposal. It also asked EASME for further information on the grading methodology and on the evaluators involved in the assessment of its application. EASME acknowledged receipt of the request for review and said that it would send a reply within the prescribed time limit of 4 months.

4. The complainant turned to the Ombudsman after it did not hear back from EASME within the prescribed deadline. In the context of a previous related inquiry [2], the Ombudsman asked the European Innovation Council and SME Executive Agency (EISMEA), which succeeded and replaced EASME on 1 April 2021, to reply to the complainant's request for review. EISMEA informed the Ombudsman that EASME had replied to the request for review in March 2021, within the prescribed timeframe. The reply appears not to have reached the complainant, which became aware of the content only as a result of the previous Ombudsman inquiry.

5. In its reply to the request for review, EASME found that the evaluation procedure was carried out in accordance with the applicable rules [3] and confirmed its decision to reject the complainant's proposal.

6. Dissatisfied with this outcome, the complainant turned to the Ombudsman again in November 2021.

The inquiry

7. The Ombudsman opened an inquiry into how EASME dealt with the evaluation of the complainant's proposal.

8. In the course of the inquiry, the Ombudsman's asked EISMEA for a reply on the complaint. In particular, the Ombudsman asked EISMEA to provide more detailed feedback on the evaluation of the complainant's proposal and to comment on the alleged delay in replying to the request for review. A non-confidential version of the reply was shared with the complainant for comments.

Arguments presented

By the complainant

9. The complainant took issue with the low scores awarded to its proposal during the evaluation. The complainant argued that EASME had failed to provide information on how it evaluates



proposals, on the experts involved in the evaluation, and on the possibilities for requesting a review.

10. Regarding the delay in replying to its request for review, the complainant claimed that EISMEA failed to provide proof that EASME had sent the reply within the prescribed timeframe. The complainant argued that, on this basis, the project should be considered approved for initial funding.

By EISMEA

11. In the reply to the request for review, EASME explained that the proposal was evaluated by independent experts, who had been appointed based on their high level of skill, experience and knowledge in the relevant areas. It said that the names and expertise of all evaluators were published at least once a year on the 'participant portal', although this list did not mention which calls they had evaluated.

12. In its reply to the Ombudsman, EISMEA explained how EASME assessed proposals in the context of the EIC Accelerator Pilot programme. It referred specifically to the Guideline for Applicants [4], which includes detailed information on the evaluation procedure, the award criteria and the scoring methodology. The Guidelines also contains rules on the appointment and assignment of experts-evaluators to proposals [5]. EISMEA further explained that, for each proposal, applicants received an evaluation summary report with the scores obtained and a qualitative assessment of their proposal for each sub-criterion consisting of an indicative appraisal scale ranging from excellent, very good, good, fair and insufficient [6]. The complainant received the qualitative assessment "insufficient" for each sub-criterion. EISMEA provided the Ombudsman with a table containing the scores received by the complainant from each evaluator [7].

13. Concerning the delay, EISMEA stated that EASME had sent a reply to the complainant within the prescribed time limit and provided evidence of this. It explained that, due to the COVID-19 pandemic, it had sent the reply by e-mail and not by registered post, as it usually does. The complainant had been asked to acknowledge receipt of the reply but, as this occurred while EASME's duties were taken over by EISMEA, EISMEA did not follow up on the fact that the complainant had not acknowledged receipt.

The Ombudsman's assessment

14. The Ombudsman finds that EASME published detailed information online on how proposals are evaluated, on the possibilities for review and on the experts involved in the evaluation. In addition, the Ombudsman finds that the information shared with the complainant on the evaluation and the review of his proposal is in line with the procedure, as set out in the call for proposals and other relevant rules. This indicates that EASME carried out a thorough assessment of proposals.



15. Nevertheless, the feedback provided by EASME on the evaluation of the complainant's proposal was very limited, consisting of the single word "insufficient" for each sub-criterion. The Horizon 2020 online manual states that an individual expert, when evaluating a proposal " *gives a score for each criterion, with explanatory comments* " [8] . From the information sent by EISMEA, it appears that the experts-evaluators provided only the scores awarded for each criterion.

16. It is a fundamental principle of good administration that the decisions adopted by EU institutions and bodies contain an adequate 'statement of reasons' [9] . Doing so enables the person concerned to ascertain the reasons for the decision and, should they challenge the decision, it further enables the Court of Justice to exercise its powers of review. It also enables applicants to EU funds to improve their proposals and for review bodies to ensure that the evaluation was sound, effective and that there were no irregularities.

17. In this case, the Ombudsman is of the view that the reasoning provided to the complainant was not sufficient in light of EU case-law on the duty to state reasons [10] , and does not allow for a meaningful review of the evaluation of the complainant's proposal. However, it should be kept in mind that it is not the Ombudsman's role to reassess proposals. The Ombudsman's role is rather to verify that the applicable procedure was followed and that there was no manifest error.

18. The Ombudsman takes note that in the context of the new EIC Accelerator Programme (Horizon Europe) [11] , EISMEA seems to have addressed the issue by providing more detailed feedback to applicants on the evaluation of their proposals [12] . In this context, the Ombudsman trusts that the feedback EISMEA provides to applicants contains comments for each sub-criterion, which are sufficient to enable applicants to clearly identify the reasoning for the scores awarded.

19. The Ombudsman is of the view that EISMEA's explanation concerning the delay in the review is clear and reasonable. While it is unfortunate that the complainant did not receive the reply to the request for review within the prescribed timeframe, it appears that EASME did send a reply by email within the deadline. Moreover, the fact that the complainant did not receive the reply within the prescribed timeframe does not imply that the proposal was tacitly approved. The initial decision to reject the proposal stands.

Conclusion

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

There are no further inquiries justified in this case.

The complainant and EISMEA will be informed of this decision .



Tina Nilsson

Head of the Case-handling Unit

Strasbourg, 15/07/2022

[1] Call H2020-EIC-SMEINST-2-2020. The EIC Accelerator pilot is a programme at EU level that offers funding, coaching and business acceleration services to innovative small or medium-sized businesses with global ambitions:

<https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/topic-details/h2020-eic-smeinst-2>
[Link]

[2] Case 1812/2021/FA

[3] See Article 16 of the Rules for Participation Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in “Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)” (OJ L 347, 20.12.2013 p.81).

[4] See Horizon 2020 EIC accelerator pilot (SME Instrument) Guidelines for Applicants Version 1.5, section 7 and 10, available here:

https://ec.europa.eu/research/participants/data/ref/h2020/other/guides_for_applicants/h2020-guide-eic-smeinst-18-2
[Link];

[5] Guidelines for Applicants Version 1.5, section 8, 9 and 13.

[6] EISMEA referred to the guidelines for applicants under the Horizon 2020 Work Programme 2018-2020:

https://ec.europa.eu/research/participants/data/ref/h2020/wp/2018-2020/main/h2020-wp1820-eic_en.pdf
[Link]

[7] The content of this table was marked confidential by EISMEA.

[8] Horizon 2020 online manual is available here

<https://ec.europa.eu/research/participants/docs/h2020-funding-guide/grants/from-evaluation-to-grant-signature/eval>

[9] Article 296 TFEU provides that: “ *Legal acts shall state the reasons on which they are based ...* ”. Article 41(2)(c) of the Charter of Fundamental Rights of the European Union provides that the right to good administration includes “ *the obligation of the administration to give reasons for its decisions* ”.



[10] Judgment of the General Court of 22 May 2019, Case T-604/15, *Ertico - ITS Europe v European Commission*, paragraph 166:

<https://curia.europa.eu/juris/document/document.jsf?text=%2522state%2Breasons%2522%2B%2522Horizon%2B2>

[Link]; Judgment of the General Court of 13 December 2017, Case T-74/15, *Oltis Group a.s. v European Commission*, paragraphs 22 and 25:

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=197762&pageIndex=0&doclang=FR&mode=lst&d>

[Link]

[11] The EIC Accelerator is the successor programme of the EIC Accelerator Pilot programme.

[12] EIC Accelerator, Guide for Applicants Version 1.6, 9 February 2022, available here:

https://www.weamec.fr/en/wp-content/uploads/sites/2/2022/02/Guide-for-Applicants_V1.6_Final.pdf

[Link]