

## **Decision on the European Commission's role and actions taken in relation to the contractual situation of 'locally recruited teachers' working in the European Schools (case 666/2022/VB)**

Decision

**Case 666/2022/VB - Opened on 14/09/2022 - Decision on 23/03/2023 - Institution concerned** European Commission ( No further inquiries justified ) |

The case concerned the contractual conditions of 'locally recruited teachers' (LRTs) in the European Schools. While the European Schools are not an EU institution, the European Commission has an important role in them, as it has a seat on the Board of Governors and is the main contributor to the Schools' budget.

The Ombudsman inquired into the Commission's role and actions taken in relation to the contractual situation of LRTs. She noted that most LRTs' contracts lack stability, as they can be terminated where teachers from the national systems of Member States are seconded to a European School, regardless of the time they have been working for the European Schools.

The Ombudsman considered that, even if the European Schools are only bound by their own rules, the Commission should use its role to ensure, within the limits of its power, that LRTs' contractual and working conditions are fully in line with EU employment laws and principles.

The Commission has a long term solution for the Schools which it is focused, first and foremost, on implementing. The Ombudsman pointed out that it is of the greatest importance that the Commission closely monitors the implementation of the solution with a view to limiting, as much as possible, the negative impact on LRTs. The Ombudsman trusts that the Commission will take whatever action is needed to address any negative impact and, then, if needed will consider further improvements to the LRTs' working conditions.

In light of this, the Ombudsman considered that no further inquiries are justified at this stage and closed the case.

## **Background to the complaint**

1. The complaint concerned the European Commission's role in the recruitment and



employment practices of the European Schools. The European Schools are official educational establishments set up in the EU Member States [1] . Currently, there are thirteen European Schools in six Member States [2] .

**2.** The European Schools are not an EU institution, office, body or agency, however the European Commission has an important role in the running of the schools, as it has a seat on the Board of Governors of the European Schools and is the main contributor to the European Schools' budget.

**3.** The Board of Governors is composed of the Ministers of Education of the Member States, representatives of the European Commission and the European Patent Office and two representatives designated by the European Schools staff committee and the parents' associations. The mandate of the Board of Governors covers educational, administrative and financial matters. The Office of the Secretary-General of the European Schools performs executive management duties, and advises and assists the European Schools in pedagogical, administrative, financial, legal and human resources matters. Each European School is run by an administrative board and managed by a director (head teacher).

**4.** From a pedagogical perspective, the European Schools follow a specific curriculum and offer the European Baccalaureate diploma, which is recognised as an entry qualification for higher education in all EU countries. In principle, the teaching staff of the European Schools consists of teachers seconded for a fixed period of time from the national education systems of the Member States. In certain cases, 'locally recruited teachers' (LRTs) [3] can occupy teaching posts on either a part-time or a full-time basis [4] . These teachers are recruited directly by the director of the school where the post is available [5] .

**5.** In December 2021, the complainant, who is a staff representative in a European School, contacted the Commission to express his concerns regarding the contractual situation of LRTs in the European Schools. In particular, he took issue with a cost-sharing mechanism adopted by the European Schools' Board of Governors, which set the target of having 65% of teachers as seconded teachers and 35% as LRTs. He argued that, to achieve that target, a significant number of LRTs would need to be removed from their teaching roles and replaced by seconded teachers. He argued that this target was set as a result of a budgetary dispute between the different stakeholders in the European Schools.

**6.** The Commission replied that the proportion of seconded teachers had dropped significantly relative to LRTs and that, in order to safeguard the functioning of the European Schools, it was necessary to increase the number of seconded teachers.

**7.** Dissatisfied with the Commission's position on the matter, the complainant turned to the Ombudsman in March 2022.

## The inquiry



**8.** The Ombudsman opened an inquiry into the complaint. In the course of the inquiry, the Ombudsman inquiry team met with representatives of the Commission to obtain information on the matter [6] and received the complainant's comments on the report of the meeting.

## Arguments presented to the Ombudsman

**9.** The complainant argued that, in order to achieve the target ratio between seconded teachers and LRTs, the European Schools would have to replace 15% of LRTs with seconded teachers. This would mean that many LRTs will lose their jobs. He argued that this is only possible because the European Schools use precarious contracts for LRTs, even when they cover permanent full-time posts. Regardless of the time LRTs have occupied these posts, and even if they have an indefinite contract, their posts can be offered for secondment every year.

**10.** The complainant added that, despite LRTs and seconded teachers having identical roles, their salaries and the stability of their contracts are considerably different. The complainant contended that this is not in line with EU values and principles on working conditions as set out in the European Pillar of Social Rights [7] and in EU law. In his view, LRTs' contractual insecurity prevents the European Schools from recruiting suitable teachers, which has an impact on the pedagogical quality of the European Schools.

**11.** As the Service Regulations for LRTs take precedence over the legal provisions of the legislation of the country where European Schools have their seat [8], the only redress mechanism available to LRTs is submitting a complaint to the European Schools' Complaint Board [9]. However, the Complaint Board can only decide on a breach of the European Schools' Convention or of the other texts governing the European Schools. In this case, as there is no formal breach of the European Schools' rules, the Complaint Board cannot intervene. In the complainant's view, the issue is that the rules governing the European Schools are outdated, do not reflect anymore the reality of the European Schools and are not in line with EU employment rules and principles.

**12.** In the complainant's view, the replacement of LRTs with seconded teachers would lead to a poorer quality of teaching in the European Schools and would also be more expensive for EU taxpayers. He contended that the decision to set a target for 65% of seconded teachers was taken because of a budgetary dispute between the Commission and the Member States on who should be covering the European Schools' costs.

**13.** The Commission stated that the European Schools system relies on seconded teachers coming from the national education systems. This represents the Member States' financial contribution to the European Schools.

**14.** Recently, some Member States have had difficulties in meeting their secondment quota. This caused a significant drop in the number of seconded teachers, while the number of LRTs more than doubled. This situation risks jeopardising the foundation of the European Schools project and the recognition of the European Baccalaureate [10] in the Member States, which is



based on the presence of teachers seconded from the national education systems. Additionally, the current situation is also problematic for financial reasons, as it is the Commission to pay for LRTs.

**15.** In order to reverse this trend, the Board of Governors adopted an agreement setting the target of 65% of seconded teachers, to be reached by September 2025. The Commission contended that achieving this target would not necessarily imply that 15% of LRTs would lose their jobs, as argued by the complainant, as the European Schools are expanding and the number of teaching posts is increasing.

**16.** Regarding the contractual conditions of LRTs, the Commission stated that, even if LRTs on indefinite contracts can have their contracts terminated when a Member State proposes a seconded teacher for a post, there are safeguards in place to protect the LRT holding the post. Member States are asked to prioritise, where possible, secondments for posts that are not occupied by LRTs with indefinite contracts. In addition, the European Schools have an obligation to try to identify another position for the LRT concerned before their contract can be terminated and there is a minimum notice period of six months. [11]

**17.** The Commission also stated that, while the principles of the European Pillar of Social Rights have a guiding role for the Commission, they are not directly applicable. Complaints concerning the European Schools should be addressed to the Schools' Complaint Board.

**18.** The Commission stated that actions have been taken to improve the working conditions of the LRTs. The 2016 Service Regulations for LRTs introduced staff representation for LRTs. In 2019, the Board of Governors approved measures to increase the attractiveness of teaching posts in the European Schools including a review of the LRT salary scheme, the opening of management positions to LRTs and the introduction of 'protected posts'. The contracts of LRTs holding protected posts cannot be terminated for secondment reasons, as these posts are not published for secondment. These measures were further extended in 2022. The Commission considers that once the target of 65% of seconded teachers is reached, further measures to improve the stability of LRTs' contracts could be discussed.

**19.** In his comments on the meeting report, the complainant further argued that, while the historical basis of the European Schools was to use teachers seconded from the Member States, the current reality of the European Schools is different, as seconded teachers are now the minority. Originally, LRTs covered temporary posts only while now, they fill indefinite posts. Hence, their contracts, which did not change in the meantime, do not reflect their functions anymore.

**20.** The complainant also rejected the Commission's argument that it is necessary to increase the number of seconded teachers to safeguard the recognition of the European Baccalaureate in the Member States. He argued that schools offering the International Baccalaureate [12] , which has even wider recognition than the European one, do not rely on seconded teachers.

**21.** Regarding protected posts, teachers welcomed their introduction, but they only represent a



limited increase in job security. The possible improvements in LRTs' working conditions that could follow the achievement of the 65% target in terms of seconded teachers would require the removal of numerous LRTs and more years of contractual insecurity. The complainant contended that a better solution would be to automatically consider protected any post currently covered by an LRT with an indefinite contract.

**22.** Finally, the complainant contended that the career opportunities for LRTs mentioned by the Commission are very limited, as the only management position open to them is that of assistant deputy director. In practice, only two LRTs have this position in the European Schools, as the rules explicitly give precedence to seconded staff for the post.

## The Ombudsman's assessment

**23.** The actions and decisions of the governing bodies of the European Schools are outside the Ombudsman's mandate. The Ombudsman's inquiry was thus limited to the actions taken by the European Commission within the European Schools.

**24.** As noted by the Commission, the European Schools are educational establishments under the responsibility of the Member States but governed by their own set of rules, which takes precedence over the law applicable in the Member State where the European Schools have their seats.

**25.** The Ombudsman appreciates that the Commission is only one of the many stakeholders of the European Schools and, regardless of the prominence of its role, its actions must be coordinated with the Member States. It also has to take into account budgetary constraints in its actions. However, the Ombudsman considers that, even if the Pillar of Social Rights is not directly applicable to the European Schools and even if LRTs' contractual conditions are not in breach of the European Schools' rules, the Commission should seek to ensure, within the limits of its power, that LRTs' contractual and working conditions are fully in line with employment laws and principles set out at EU level.

**26.** There are certain precarious aspects of the contractual situation of LRTs that do not appear to be in line with the Pillar of Social Rights. Regardless of the amount of time they have been in their posts, and even where they have indefinite contracts, LRTs can have their contracts terminated to facilitate the secondment of a teacher from the national education system of a Member State. Such lack of stability seems at odds with principle 5 of the Pillar of Social Rights, which states that “*employment relationships that lead to precarious working conditions shall be prevented [...]*”.

**27.** In the course of the inquiry, the Commission demonstrated that it is aware of the issues affecting LRTs working in the European Schools and that it is trying to address these issues. It also presented a concrete long-term solution to the issues affecting the European Schools, which is currently being implemented. The Commission contended this would guarantee the proper functioning of the European Schools.



**28.** The Ombudsman notes that the complainant and the Commission disagree on the extent of the negative impact that the long-term solution will have on LRTs currently working for the European Schools.

**29.** The Commission also confirmed in the meeting with the Ombudsman inquiry team that it is open to considering further improvements to the LRTs' working conditions, once the target of 65% of seconded teachers is reached. As such, it is clear that the Commission is focused, first and foremost, on implementing the long term solution.

**30.** Against this background, it is of the greatest importance that the Commission closely monitors the implementation of the solution with a view to limiting, as much as possible, the negative impact on LRTs. The Ombudsman trusts that the Commission will take whatever action is needed to address any negative impact and, then, if needed will consider further improvements to the LRTs' working conditions.

**31.** On this basis, the Ombudsman closes the case with the conclusion that no further inquiries are justified at this stage.

#### Conclusion

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

**No further inquiries are justified.**

The complainant and the Commission will be informed of this decision.

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 23/03/2023

[1] Additional information on the European Schools is available at <https://www.eursec.eu/en> [Link].

[2] The list of European Schools is available at <https://www.eursec.eu/en/European-Schools/locations> [Link].

[3] Additional information on locally recruited teachers is available at <https://www.eursec.eu/en/European-Schools/recruitment/locally-recruited-teaching-staff> [Link].

[4] Service Regulations for the locally recruited teachers in the European Schools, Article 6,



<https://www.eursc.eu/BasicTexts/2016-05-D-11-en-10.pdf> [Link].

[5] Service Regulations for the locally recruited teachers in the European Schools, Article 7.

[6] <https://www.ombudsman.europa.eu/en/doc/inspection-report/en/167611> [Link].

[7] Information on the European Pillar of Social Rights is available at <https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment> [Link].

[8] Service Regulations for the locally recruited teachers in the European Schools, Article 3.

[9] Information on the Complaints Board of the European Schools is available at <http://www.schola-europaea.eu/cree/> [Link].

[10] Information on the European Baccalaureate is available at <https://www.eursc.eu/en/European-Schools/European-Baccalaureate> [Link].

[11] Service Regulations for the locally recruited teachers in the European Schools, Article 17.

[12] Information on the International Baccalaureate is available at <https://www.ibo.org> [Link].