

Decision of the European Ombudsman closing the inquiry into complaint 1613/2012/DK against the European External Action Service

Decision

Case 1613/2012/DK - **Opened on** 12/09/2012 - **Decision on** 30/07/2014 - **Institution concerned** European Commission (No maladministration found) |

The case concerned an alleged mistake in the evaluation of bids submitted to the EEAS. The Ombudsman closed the complaint with a finding of no maladministration when she verified that the scores communicated to the complainant were accurate.

The background to the complaint

1. In July 2011, the complainant took part in a public tender organised by the Delegation of the European Union to Montenegro ('the Delegation').
2. In August 2011, the Delegation informed the complainant that its proposal was not pre-selected as it did not receive the minimum score of 30 points. The Delegation attached to its reply a copy of the evaluation grid of the complainant's proposal.
3. The complainant took the view that there was a mathematical error in the evaluation grid since the individual scores awarded for the different sections totalled 30 points, whereas the total score noted on the evaluation grid was only 27 points. The complainant immediately informed the Delegation and asked it to correct the error.
4. In reply, the Delegation sent a revised evaluation grid. However, instead of correcting what the complainant considered to be a mathematical error in the calculation of its total score, the Delegation reduced the score awarded under section 2.2 ('Feasibility and consistency of the action in relation to the objectives and expected results') from 7 to 4 points. The total score therefore remained at 27 points.
5. The complainant replied to the Delegation that it could not accept such a rectification without any further supporting evidence. The complainant argued that their application would pass to the next evaluation stage with a final score of 30 points, while this was not the case with only 27 points.



6. In reply, the Delegation explained that the inconsistency was an unfortunate typing mistake of one number in the table, and that the total score was indeed correct. It added that it could not disclose the discussions of the evaluation committee since these were covered by confidentiality. The Delegation pointed out that the four proposals that had passed to the next stage had obtained, in any case, at least 32 points.

7. The complainant then turned to the Ombudsman with the present complaint.

The inquiry

8. The Ombudsman opened an inquiry into the following allegation and claim.

Allegation:

The complainant alleged that the Delegation wrongly conducted the evaluation process concerning the restricted call 'Civil Society Development'.

In support of his allegation, the complainant argued that the marks attributed to his bid were erroneous, the evaluation procedure was not transparent and the final results of the tender were never made public.

Claim:

The Delegation should justify the evaluation of its application and prove that the initial breakdown of scores provided to it was incorrect.

9. The Ombudsman forwarded the complaint to the European External Action Service (EEAS), as the supervisory body of the Delegations of the European Union. The Ombudsman also asked for an inspection of the complete documentation concerning the evaluation of the complainant's application. After receiving the opinion of the EEAS, the Ombudsman forwarded it to the complainant with an invitation to submit observations. The complainant did not submit observations. The Ombudsman's services also carried out the inspection of the relevant documents, and sent a copy of the inspection report to the complainant.

Allegation that the Delegation wrongly conducted the evaluation process

Arguments presented to the Ombudsman

10. The complainant's main grievance is that the Delegation wrongly conducted the evaluation process of its proposal because the marks attributed to his bid were erroneous. It therefore



considered that the procedure was not transparent. It also remarked that the final results of the procedure were never made public.

11. In its opinion, the EEAS first explained that the evaluation procedure was managed by the Delegation as the contracting authority. Each proposal was evaluated by two evaluators, who independently gave their scores. The total score awarded by the evaluators to the complainant's proposal was 27 points. Since the minimum score, as indicated in the Guidelines for grant applicants [1] , was 30 points for a proposal to pass the next stage of the evaluation, the complainant's proposal was not further considered. Therefore, the complainant's argument that the evaluation process was conducted wrongly does not stand.

12. As regards the mistake in the evaluation grid, the Delegation immediately reacted after the complainant had informed them about it. It admitted that there was a typing mistake, which occurred when transcribing the score of one section (section 2.2) of the evaluation into the evaluation grid: a score of '7' was inserted in section 2.2 of the complainant's evaluation grid instead of the actual score of '4'. Furthermore, the Delegation provided the complainant with the corrected version of the evaluation grid within one day. In the cover letter, signed by the Chairman of the Evaluation Committee, the EEAS apologised for this mistake.

13. The EEAS further pointed out in its opinion that the original evaluation grids filled in by the two assessors clearly show that both evaluators awarded 4 points to the complainant's proposal under section 2.2, and that the Ombudsman's services were provided with these original documents during the inspection.

14. As regards the transparency of the procedure, the EEAS observed the following. On 8 August 2011, the complainant asked the Delegation to provide it with supporting evidence that the difference in the numbers was indeed a typing mistake. The next day, the Delegation replied that it could not grant the complainant's request because the relevant documents were covered by the confidential nature of the proceedings of the Evaluation Committee. Nevertheless, all written records concerning the evaluation of the complainant's application were kept by the Delegation and were provided to the Ombudsman's services during the inspection. In addition, the Delegation also informed the complainant that the four proposals admitted to the next stage were awarded at least 32 points. Finally, as regards the publication of the list of successful applicants, the list was published on the Delegation's website on 24 September 2012 [2] .

15. The EEAS concluded its opinion by stating that the evaluation of the complainant's proposal was carried out in accordance with the relevant provisions. Nonetheless, it acknowledged and apologised for the fact that the evaluation grid sent to the complainant the first time contained a typing mistake.

The Ombudsman's assessment

16. The Ombudsman's services inspected the complete documentation concerning the evaluation of the complainant's application. This involved a careful examination of the two



original evaluation grids concerning the complainant's proposal, filled in separately by the two evaluators. On both forms, the evaluators gave 4 points under section 2.2.

17. In light of the above fact, the Ombudsman finds that the mistake in the first evaluation grid transmitted to the complainant was, indeed, only a typing mistake by the person responsible for noting the results of the Evaluation Committee. This finding is also in line with the statements of the Delegation given to the complainant, as well as with the submissions of the EEAS made in its opinion on the complaint.

18. The Ombudsman recognises and applauds that the Delegation not only acknowledged the mistake and apologised for it, but also reacted swiftly to make it right by sending a corrected evaluation grid to the complainant within one day.

19. In these circumstances, the Ombudsman finds no maladministration by the EEAS.

Conclusion

On the basis of the inquiry into this complaint, the Ombudsman closes it with the following conclusion:

The Ombudsman finds no maladministration by the EEAS.

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

Emily O'Reilly

Strasbourg, 30/07/2014

[1] The Guidelines for grants applicants, as published on the EuropeAid website and on the website of the Delegation, provided that: "*First, only the proposal which have been given a score of a minimum of 30 points will be considered for pre-selection.*"

[2]

<https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome&nbPubliList=15&orderby=up>
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