

Decision in case 1728/2014/DK on the European Research Council Executive Agency's alleged factual error in the evaluation of a proposal for funding

Decision

Case 1728/2014/DK - **Opened on** 29/10/2014 - **Decision on** 18/09/2015 - **Institution concerned** European Research Council Executive Agency (No maladministration found) |

The complainant sent a proposal for funding under a call for proposals, managed by the European Research Council Executive Agency. The project was not granted funding. One of the concerns put forward by the panel that reviewed the proposal was that it was not clear how the scientific collaborators, working on the projects, would be supervised.

The complainant made a request for redress, which was not successful. He then turned to the Ombudsman.

The Ombudsman inquired into the issue and found that the Redress Committee was correct in finding that the conclusions of the panel that reviewed the proposal were not vitiated by a factual error. She thus concluded there was no maladministration.

The background to the complaint

1. In 2011, the complainant submitted a proposal to the European Research Council Executive Agency ("the Agency") for a Starting Grant under the "Ideas" Specific Programme [1] .
2. On 30 July 2012, the Agency informed the complainant that his proposal would not receive funding because the proposal was not sufficiently clear on the location of the project members. Specifically, it noted that the research activities would be carried out by three different PhD researchers situated at " *three different universities and supervised by three different people, with no integrating structure visible.* " Moreover, they also found, as regards the substance of the proposed research, that the proposal did not make sufficient references to French and Spanish literature on "Tacitism" and that the integration of sub-projects was not sufficiently cohesive.
3. The complainant lodged a request for redress with the Agency pointing out that the proposal clearly stated that the project was to be carried out at one location. He argued that the proposal



also explained that the three PhD researchers would formally be under the supervision of three external "promoters", since he was not allowed to act as official '*promotor*' for PhD students. However, he insisted, he would be in charge of their daily supervision.

4. On 10 October 2012, the Redress Committee replied that the complainant's comments questioned the scientific judgment of the panel, which is outside of its remit. Since the Redress Committee found no procedural error in the evaluation procedure, it confirmed the initial decision of the panel.

5. The complainant contacted the Agency again in November 2012 and July 2013. He argued that his request for redress did not seek to question the scientific evaluation, but rather to point out that the panel wrongly considered that the proposed project would be carried out at three different universities. He argued that this was a factual error by the evaluators.

6. The Agency replied that the complainant's proposal was rejected also on the grounds of the lack of sufficient reference to French and Spanish literature, and of the evaluators' doubts about the integration of the sub-projects. Moreover, the complainant's proposal did not make it clear whether the supervision of the PhD students would be carried out in one place.

7. The complainant then complained to the Ombudsman about the evaluation procedure.

The inquiry

8. The Ombudsman opened an inquiry into the complaint and identified the following allegation and claims:

Allegation:

The ERCEA failed to correct, through its redress procedure, a factual error in the evaluation of the complainant's proposal.

Claims:

1. The ERCEA should acknowledge the factual error.
2. The ERCEA should provide the complainant with genuine redress.

9. In the course of the inquiry, the Ombudsman received the opinion of the Agency on the complaint and, subsequently, the comments of the complainant in response to the Agency's opinion. In conducting the inquiry, the Ombudsman has taken into account the arguments and opinions put forward by the parties.

Allegation of failure to correct a factual error in the



evaluation of the proposal

Arguments presented to the Ombudsman

10. In its opinion, the Agency stated all proposals were evaluated by a two-step peer review evaluation. In July 2012, the Agency informed the complainant that his proposal would not be funded and provided him with a copy of the evaluation report. The evaluation report referred to the "*laudable attitude*" of the project, but identified three weaknesses in it, namely: (i) that the three PhD students were located at three different universities and supervised by three different people; b) that there was uncertainty as to whether subprojects would "contribute to a cohesive product" and; c) that the project did not cover French and Spanish Tacitism even though it claimed to cover a "*history of European Tacitism*". The complainant was advised that he could submit a request for redress, which he did in August 2012.

11. As regards the Redress Committee, the Agency pointed out that its role is to verify whether or not there have been shortcomings that could affect the funding decision. However, its role is not to re-evaluate proposals or to enter into the merits of the evaluation. Applicants are specifically informed about this as the ERC Rules for submission of proposals provide that the "*Committee will not call into question the scientific judgment of the individual peer reviewers, who are appropriately qualified experts.*" [2] The Agency pointed out that while a typical case of a "shortcoming" is a factual error, the ERC Redress Guidelines make it clear that "*factual errors mainly consist of wrong statements made by an individual expert when compared to what is written in the proposal.*" If an important factual error is found, the Redress Committee asks for partial or complete re-evaluation of the proposal.

12. The Agency also explained that before a request for redress is submitted to the Redress Committee, a scientific officer prepares a report about the request itself and his/her opinion on that request. The scientific officer who reviewed the complainant's redress request stated that the complainant considered that his proposal had been rejected mainly because the panel misunderstood the team structure proposed by the complainant. The scientific officer stated, as regards this point, that, contrary to the complainant's arguments, the proposal did not make it clear that the supervision of PhD students would be carried out **in one place**. The scientific officer pointed out, however, that the panel also criticised the lack of sufficient references to French and Spanish literature, and expressed doubts about the integration of the sub-projects.

13. Further to the report of the scientific officer, the Redress Committee discussed the case and found that the complainant's request for redress only challenged the issue of the location of the persons supervising the PhD students. It did not challenge the view taken as to the other two reasons mentioned in the evaluation report (see paragraph 10 above).

14. As regards the location of the persons supervising the PhD students, the Redress Committee noted the following statements made by the complainant in his proposal:

"Supervision of the PhD students on a daily basis will be done by me as the [principal



investigator] of this project. Formal supervision will be undertaken by the following people:

PhD1:- Prof Dr [P.S.] , Erasmus University Rotterdam and Utrecht University

PhD2: -Prof Dr [H. H.], Utrecht University

Postdoc: -Dr [J.F.D.] Leiden University . [3] "

15. The Redress Committee thus rejected the complainant's argument that the evaluators should have understood that formal supervision did not occur from different locations. It added that it was for the complainant to explain clearly, in the proposal, how the supervision of the PhD students would be organised. The complainant should, it insisted, have clarified the issue of supervision in the proposal. It noted that applicants should clearly describe, in their proposals, their team and how the team is supposed to work. This would have ensured that the panel would not have to guess the intended meaning. The Agency noted that the complainant argued that the fact that he applied from one host institution should have led the panel to conclude that the work would be done at one location. The Agency noted, however, that the panel evaluates hundreds of proposals and cannot simply guess as to the intended meaning of a proposal. The Agency then concluded that the Redress Committee correctly concluded that there was no factual error by the panel.

16. In his observations, the complainant insisted that the conclusion on the issue of supervision was a factual error. He argued that the redress procedure did not represent a genuine attempt to "discover the proposal's real intention".

17. The complainant then argued that if his proposal was indeed ambiguous, this would have been a serious flaw which would have raised questions long before the final stage of the evaluation procedure. He noted that it could have been raised during his interview. He noted, in this respect, that the purpose of the interview with the applicants was to clarify any ambiguous issues. However, this issue was not raised during his interview.

18. Lastly, the complainant disagreed with the Agency's observations that the issue of supervision was not the main reason for his project being rejected. In his view, the issue of supervision was indeed the main reason why his proposal was not selected.

The Ombudsman's assessment

19. The Ombudsman notes that the role of the Redress Committee is only to assess whether the panel made a factual error on a proposal. In doing so, the Redress Committee can only examine the contents of the proposal submitted to the panel with a view to determining if the panel had misunderstood facts set out in the proposal. It is not, however, within the power of the Redress Committee to examine clarifications or new facts put forward by an applicant to remedy a lack of clarity in a proposal. As such, if a panel awarded low marks to a proposal because of a lack of clarity therein, the Redress Committee cannot take into account any clarifications of the



proposal or new facts which were not in the original proposal.

20. The Ombudsman, in this context, notes the complainant's argument that the redress procedure did not represent a "genuine attempt to understand the real intention of his proposal". It thus seems that the complainant misunderstands the nature of the redress procedure as being a process by which his proposal could be clarified.

21. As regards the content of his proposal, the complainant argued that the fact that he applied with one host institution should have led to the conclusion that the work would be done in one location. The Ombudsman agrees with the Agency that this conclusion was not obvious from the proposal. She notes that the proposal clearly states that formal supervision will be undertaken by persons in three different universities. Even if this statement were clarified, at the stage of the redress procedure by the complainant, such clarifications cannot be taken into account at that stage.

22. As regards the complainant's argument that any deficiencies in his proposal should have been pointed out to him during the interview, which took place after the submission of the proposals, the Ombudsman notes that it is not the responsibility of the Agency to verify whether proposals are devoid of weaknesses. That responsibility rests only with the person making the proposal.

23. Finally, as regards the complainant's argument that the supervision of the PhD students was the main reason for the rejection of his proposal, the Ombudsman notes that this seems to be a misunderstanding. The copy of the evaluation report sent to the complainant clearly identified three weaknesses in it: (i) the location of the supervisors of the PhD students; (ii) lack of cohesion of the sub-projects and the lack of sufficient reference to French and Spanish literature.

24. In view of the above, the Ombudsman finds no maladministration by the Agency as regards the complainant's allegation. Consequently, the complainant's claims cannot be substantiated.

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 Agency.

The complainant and the European Research Council Executive Agency will be informed of this decision.

Emily O'Reilly



Strasbourg, 18/09/2015

[1] ERC Starting Grant, the "Ideas" Specific Programme, call ERC-2012-StG_2012.

[2] The ERCEA noted this was stated in Section 3.1.9. of the ERC Rules for the submission of proposals, Commission Decisions C (2007) 2286 of 6 June 2007 and C (2007) 4429 of 27 September 2007. The Ombudsman notes there is no such provision in the said version of the Rules. However, the provision was included with the Commission Decision of 9 December 2010 amending Decision C (2007) 2286 of ERC Rules for the submission of proposals and the related evaluation, selection and award procedures for indirect actions under the Ideas Specific Programme of the Seventh Framework Programme (2007 to 2013), which were in force when the complainant sent his proposal and later his request for redress.

[3] Underlining in original.