

Decision in case 518/2014/KM on the partial recovery of a grant by the Education, Audiovisual and Culture Executive Agency

Decision

Case 518/2014/KM - Opened on 17/04/2014 - Decision on 15/12/2017 - Institution concerned European Education and Culture Executive Agency (Solution partly achieved) |

The case concerned the decision by the Education Audiovisual and Culture Executive Agency of the EU (the EACEA) to recover EUR 56 225.34 from the complainant, an Austrian association that had received a grant to carry out a project in the field of 'non-formal education'. The EACEA claimed that the complainant had not submitted the necessary documents to prove that it had incurred certain costs. The complainant disagreed with the decision to recover the money.

The Ombudsman inquired into the case and asked the EACEA to reconsider its decision to reject certain of the cost items. The EACEA responded positively and accepted some of the cost items, thereby reducing the amount to be recovered. While the Ombudsman regretted that the EACEA did not look again at all of the cost items identified, in the overall context of the case, and taking into account the efforts made by EACEA, this did not amount to maladministration. The Ombudsman therefore closed the case as the EACEA had partially accepted her proposal for a solution.

The background

1. In 2005, the complainant, an Austrian association, was awarded an EU grant to carry out a project aimed at the inclusion of young people with disabilities in international volunteering projects. It received around EUR 126 000 in 'pre-financing payments' [1] . However, after receiving the 'final report' on the grant, the Education Audiovisual and Culture Executive Agency of the EU (the EACEA) decided, in June 2010, to recover EUR 56 225.34, as it claimed the complainant had failed to provide supporting documents for the related costs. In January 2014, the European Commission issued a formal decision to this effect. In April 2014, the complainant turned to the Ombudsman, who opened an inquiry into the complaint that the EACEA was wrong to seek to recover the funds and that it should reassess the final report that the complainant had submitted. [2]

2. In the course of the inquiry, the Ombudsman received the EACEA's opinion on the complaint and, subsequently, the comments of the complainant in response to its opinion. The Ombudsman also inspected the EACEA's file on the project, and subsequently proposed, as a solution, that the EACEA reconsider its decision to recover funds relating to some of the cost



items.

The Ombudsman's proposal for a solution

3. The Ombudsman found that the decision to recover most of the cost items by the EACEA was reasonable. However, in relation to some cost items, some questions remained.

Insufficient reasoning

4. The complainant had pointed to some discrepancies between the overall amount of rejected costs and a table that listed the rejected costs by cost heading. In the course of the inquiry, the EACEA provided a satisfactory explanation for part of this discrepancy. As to the remainder, it admitted that it had rejected some cost items without clearly informing the complainant.

5. The Ombudsman thus asked the EACEA to reconsider its decision to reject the cost items numbered 83, 116, 224, 225 and 226 in the accounting records.

Documents submitted in the course of the inquiry

6. In the course of the inquiry, the complainant sent a number of documents to the Ombudsman, arguing that these supported its cost claims.

7. The Ombudsman took note of the fact that, before the complainant turned to the Ombudsman, the EACEA had repeatedly tried to clarify the costs claimed and asked the complainant to provide supporting documents for these cost items. However, she found that it would clearly be appropriate and citizen-friendly for the EACEA to pay costs actually incurred by the complainant, even if the supporting documents confirming the costs were provided only at a later stage. She therefore proposed to the EACEA as a solution that it reconsider the eligibility of these cost items, taking into account the supporting documents provided by the complainant in the context of the inquiry.

Reactions to the proposal for a solution

8. The EACEA responded to the proposal for a solution by sending two letters, one to the complainant and one to the Ombudsman.

9. It accepted that it had not provided sufficient explanations in relation to some cost items. It thus wrote to the complainant stating that the supporting documents for item 83 (EUR 100), a cash disbursement slip, and for item 116 (EUR 360), a bank transfer with a reference to “photo materials”, did not explicitly refer to the project. Thus, these documents could not be used to prove that the money in question had been spent on the project. Similarly, the documentation for items 224, 225 and 226 (a total of around EUR 40) were supermarket receipts, which the EACEA claimed could also not be linked to the project. As the costs claimed were not



identifiable and verifiable, which was a requirement of the grant agreement, the EACEA stated that it had to reject them. It invited the complainant to comment.

10. As regards the additional documents that the complainant had submitted, the EACEA emphasised that it normally required such evidence to be submitted within a fixed deadline. However, in the interests of citizen-friendly administration, it had assessed this new information. It fully accepted cost item 1 (EUR 2 000), and partially accepted cost item 86 (around EUR 500). As for cost items 27 and 35 (a total of around EUR 12 000), the EACEA noted that the complainant had submitted two invoices, which did not comply with the criteria set out under the grant agreement.

11. In its reply to the Ombudsman and the EACEA, the complainant welcomed the fact that the EACEA had agreed to pay some of the costs. However, it argued that the EACEA had not properly implemented the solution proposed by the Ombudsman. In particular, the complainant claimed that the EACEA had not actually taken into account the newly submitted documents, but had simply restated its previous decision. The complainant maintained that the costs at issue were fully documented and clearly linked to the project.

12. According to the complainant, cost item 83 was a cash disbursement slip for a cost incurred for technical support for a theatre performance that was part of the project. Item 116 was an invoice from the Latvian partner in the project, which was included in the list in the same way as the other invoices that the EACEA had accepted; there was also a proof of payment. The complainant had used the photo materials referred to for promoting the project.

13. The complainant accepted that certain receipts for items 27, 35, 224, 225 and 226 were supermarket receipts. The complainant explained that part of that purpose was to include participants, especially those with disabilities, by giving them small financial responsibilities, such as shopping. The receipts that the complainant had listed in the final report related to these expenses. It added, however, that amongst the supporting documents for cost item 35 was an invoice for the development of the project website, which clearly referred to the project by its name.

14. The complainant also reminded the EACEA that the Ombudsman's inspection had shown a difference of EUR 439.20 between the sum of the rejected cost items and the total recovery. It considered that the EACEA should therefore reduce its recovery request by this sum.

15. Finally, the complainant questioned how "citizen-friendly" the EACEA's approach really had been, since it had resulted in a reduction of its recovery claim by such a small amount. The complainant pointed out that it was a non-profit organisation for which it would be "*a massive challenge*" to find the amount of funds sought by the EACEA. It therefore asked the EACEA to reconsider its position on cost items 83, 116, 224-226, 27 and 35.

16. In its reply to the complainant's letter, the EACEA maintained that, despite the additional information that the complainant had submitted, it still could not accept cost items 83 and 224 to 226 because the supporting documents were insufficient. It also pointed out that the fact that it



had accepted some costs for food and accommodation, where the complainant had provided a list of invoices that clearly identified the expenses, did not mean that it could accept cost item 116, for which the related invoices merely stated “bank transfer for photo materials”. There were no further supporting documents or reference to the project.

17. In relation to cost items 27 and 35, the EACEA noted that the Ombudsman had confirmed the EACEA’s analysis that the invoices seemed to have been written by the complainant and that it was not clear to whom they were addressed. They thus did not comply with the formal criteria for an invoice, and the EACEA could not accept any of these costs.

18. Finally, the EACEA objected to the complainant’s argument that it should reduce the amount it sought to recover by an additional EUR 439.20. In conclusion, the EACEA maintained its decision to reduce the recovery order by EUR 2653.98.

The Ombudsman's assessment after the proposal for a solution

19. The EACEA has taken steps to follow the Ombudsman’s solution proposal. Firstly, in relation to the cost items which it had rejected without giving the complainant the opportunity to make any comments (namely, 83, 116, and 224-6), it has explained why it had rejected them and gave the complainant the opportunity to comment. Secondly, it has reconsidered two cost items in relation to which the complainant had submitted new evidence in the course of the Ombudsman’s inquiry: it considered one fully and the other partially eligible for funding and reduced its recovery accordingly (by EUR 2 653.98). Thirdly, it addressed the fact that the complainant was not satisfied with the decision on cost items 27 and 35, 83, 116 and 224 to 226.

20. The Ombudsman considers that the EACEA has provided a coherent and reasonable explanation for its decision to reject cost items 83, 116, and 224 to 226. The Ombudsman also considers that the EACEA was correct to reject the complainant’s argument that it should reduce the recovery amount sought by EUR 439.20.

21. The Ombudsman had also asked the EACEA to give the complainant the opportunity to make observations on the relevant cost items (namely, 116, 224, 225 and 226). However, now that the EACEA has done so, and the observations do not justify a change of view by EACEA, there is no longer any basis for the complainant to contest the recovery of this amount.

22. The Ombudsman’s inquiry team also contacted the EACEA in order to ensure that there had been no misunderstanding on cost items 27 and 35.

23. In reply, the EACEA said that it had given the complainant repeated opportunities to provide documents, and that it had already reduced the recovery order. On the cost items themselves, it reiterated that the “invoice” for item 27 did not meet the criteria for an invoice (for example, it was not clear to whom this invoice was addressed). The complainant had never explained that



the invoice was the sum of the receipts attached to it. In any event, those receipts were “simple supermarket receipts”. In conclusion, the complainant had by now been paid the reduced recovery sum and, from the point of view of the EACEA, the case was now closed. The Ombudsman agrees that many of the receipts linked to that overall invoice were simply supermarket receipts. The EACEA is correct to reject these receipts.

24. The Ombudsman recognises the efforts of the EACEA to deal with the case in a positive manner by reducing the recovery order by 2 653.98 EUR. The Ombudsman thus closes the case with the finding that her proposal for a solution has been partially accepted.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion [3] :

The EACEA has partially accepted the Ombudsman’s proposal for a solution.

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

Emily O'Reilly European Ombudsman

Strasbourg, 15/12/2017

[1] The complainant was awarded a grant in the field of non-formal education by the European Commission (Call for proposals DG EAC 85/04, [published \[Link\]](#) in the Official Journal of the European Union C 30, p 23, on 5 February 2005). The complainant received two pre-financing payments totalling EUR 125 785.60. The administration of the project was later handed over from the Commission to the EACEA.

[2] For further information on the background to the complaint, the parties' arguments and the Ombudsman's inquiry, please refer to the full text of the Ombudsman's proposal for a solution available at: <https://www.ombudsman.europa.eu/cases/solution.faces/en/87340/html.bookmark>

[3] Information on the review procedure can be found on the Ombudsman's website: <http://www.ombudsman.europa.eu/en/resources/otherdocument.faces/en/70669/html.bookmark> [\[Link\]](#)

