

Proposal for a solution in own-initiative inquiry OI/7/2016/MDC on the decision of the European Union Delegation to Armenia not to conclude a Grant Contract

Solution - 15/06/2016

Case OI/7/2016/MDC - **Opened on** 15/06/2016 - **Decision on** 19/02/2018 - **Institution concerned** European Commission (No maladministration found) |

Made in accordance with Article 3(5) of the Statute of the European Ombudsman [1]

This own-initiative inquiry is based on a complaint submitted by an association of Armenian NGOs called the Citizens' Protection League (CPL). It concerns the decision of the European Union Delegation to Armenia not to conclude a Grant Contract with CPL which, according to the latter, was not based on sound reasons.

The Delegation took the decision not to conclude the Grant Contract with CPL in the context of the final step (Step 3) of the evaluation process, after the Delegation decided that CPL had successfully completed Steps 1 and 2 of the evaluation process. According to the Guidelines for grant applicants, Step 3 was aimed at verifying only (i) any incoherence between the Declaration by the applicant and the supporting documents, and (ii) the eligibility of the applicants, the affiliated entities and the action. However, it appears that there was no incoherence and that the applicant was eligible.

The Ombudsman's inquiry team makes the preliminary finding that the Commission appears to have acted in a manner that was inconsistent with its Guidelines when it decided not to conclude a Grant Contract with the complainant. She therefore proposes that the Commission conclude a Grant Contract with CPL without delay.

The background to the complaint

1. This own-initiative inquiry is based on a complaint submitted by an association of Armenian NGOs called the Citizens' Protection League (hereinafter, 'CPL') [2] which responded (as the applicant) to a restricted Call for Proposals (EuropeAid/137-009/DD/ACT/AM-1 *Civil Society Organisations and Local Authorities in Development - Actions in partner countries (Lots 1 & 2) - Armenia*) [3] .

2. According to the Guidelines for grant applicants (hereinafter, the 'Guidelines'), applicants first had to submit a 'Concept Note' and then, if pre-selected, a Full Application. The proposals were to be assessed in three steps. **Step 1** ('Opening & Administrative checks and Concept Note



evaluation') involved the assessment of the Concept Note. In the course of **Step 2** ('Evaluation of the Full Application'), the Evaluation Committee had to assess (among other things) whether "*the full application form satisfies all the criteria specified in points 1-9 of the Checklist (Section 7 of Part B of the grant application form)... The quality of the applications, including the proposed budget and capacity of the applicants and affiliated entity(ies), will be evaluated using the evaluation criteria in the evaluation grid below.*"

3. The following evaluation criteria were included in the grid:

" 1. Financial and operational capacity

1.1 Do the applicants and, if applicable, their affiliated entity(ies) have sufficient experience of project management?

...

1.3 Do the applicants and, if applicable, their affiliated entity(ies) have sufficient management capacity? (Including staff, equipment and ability to handle the budget for the action?)

1.4 Does the lead applicant have stable and sufficient sources of finance?"

4. Applicants who were provisionally selected after having successfully completed Step 2 had to submit supporting documents [4] " in order to allow the Contracting Authority to verify the eligibility of the applicant, (if any) of the co-applicants(s) and (if any) of their affiliated entity(ies) ." These supporting documents were assessed in the course of **Step 3** ('Verification of eligibility of the applicants and affiliated entity(ies)'). The Guidelines explained that during Step 3,

"• The Declaration by the applicant (Section 8 of Part B of the grant application form) will be cross-checked with the supporting documents provided by the applicant. Any missing supporting document or **any incoherence between the Declaration by the applicant and the supporting documents** may lead to the rejection of the application on that sole basis.

• The eligibility of applicants, the affiliated entity(ies), and the action will be verified according to the criteria set out in Sections 2.1.1 [5] , 2.1.2 and 2.1.3 " (emphasis added)."

5. CPL was informed that it had passed Step 1 on 15 July 2015 and was invited to submit a full application form. On 6 November 2015, CPL received a letter from the EU Delegation to Armenia (hereinafter the 'Delegation') which stated as follows: "... *having checked the documents in support of the eligibility of your organisation and co-applicants and the action, I am pleased to inform you that the Contracting Authority has decided that your application may be awarded a grant of a maximum of EUR 452 580... Please note that this letter does not give you the right to the grant. You will not acquire that right until both parties have signed the grant contract and then your right will depend upon the terms of the contract. A grant contract between the Contracting Authority and your organisation will therefore be drafted. For this purpose, you are kindly requested to submit the following information and documents, i.e.:*



...

- Official financial statement of your organisation ... *as reported to the competent Armenian authorities. Kindly provide these reports for the last three years and upload the reports in PANDOR* " (emphasis (in bold) added).

6. This meant that CPL had passed Step 2 of the evaluation process.

7. CPL submitted all the requested information and documents. On 3 December 2015, the Delegation requested CPL to submit further information. It stated that from the annual financial information provided, it appeared that CPL's " *financial figures reported to the authorities ... are '0'* ". The Delegation therefore requested " 1. *Any proof of financial activities of [CPL]* ; 2. *Any proof of the activities conducted by [CPL] as explained in the proposal*; 3. *Information about the staff actually working for [CPL];* 4. *The charter of the organisation proving the legal association between [CPL] and NGO Hakastver and the remaining NGO in the association.* "

8. CPL replied on 4 December 2015. Although all the requested information had been available in 'PADOR' [6] , it resubmitted it and explained that CPL was founded by NGOs that had broad experience in implementing projects, but this was the first time that CPL had applied for a grant.

9. As proof of the activities conducted (point 2 above), CPL enclosed with its reply some of its activity documents, such as letters, requests, replies from the State and other organisations, a newspaper article concerning an investigation etc. CPL also enclosed " *the organisations' statute and charter of the organisation proving the legal association of all NGOs- members of the Citizens Protection League* " (point 4 above). In reply to the request for proof of CPL's financial activities (point 1 above), CPL stated that all its activities (investigations, seminars etc.) were " *implemented on volunteer basis (experts, premises for seminars, equipment etc were provided by CPL member NGOs, i.e. no independent financial activity was made (except some negligible administrative costs like mailing service, opening bank account and stamp).* " As for point 3 above, CPL stated that " *as the CPL had no independent financial activity, there were no paid staff. All the staff ever worked for CPL were working on volunteer basis, being also employees of CPL member organisations. Permanent staff is represented by President of the CPL - [X] (from NGO "Hakastver"), Vice president of the CPL - [Y] (NGO Achilles).* "

10. On 23 December 2015, the Delegation informed CPL that it had conducted its final step (Step 3) of the " *Evaluation pertaining to the verification of eligibility of the applicants and co-applicants* ". It added: " *According to the Guidelines point 2.1.1. the Applicant must be directly responsible for the preparation and management of the action with their partners, not acting as an intermediary. In this case, the Applicant ... has no proven track record of any financial activities or experiences of its own. The CPL experiences referred to in the proposal are coming from other organisations, the latter being neither Co-Applicants, neither Affiliated entities with respect to this particular proposal.*

In light of the above, we consider that CPL as Applicant did not meet the eligibility criteria and



consequently we will not be in position to award you any grant under this particular call. .."

11. In its reply, CPL stated that it could find no "*direct restriction* [in the tender documents] on organisations with little or no financial experience to participate and sign a contract". Moreover, the statement that 'the CPL experiences were coming from other organisations which were neither co-applicants nor affiliated entities' was "*obviously incorrect, because exactly these organisations form the CPL - they are member organisations, and the CPL is juridical union of these NGO's. This can be proven by the CPL statute.*

As it was stated in our project, the project was prepared by CPL-member NGO Hakastver team and relies on its huge experience which, among others, includes 2 projects funded by the EU Delegation.

However, if financial experience of its own is legally obligatory (which we find doubtful) and the lack of financial experience of the CPL is critical factor, then the CPL-member NGO Hakastver is ready to be directly responsible for the project implementation. As it was stated above, the project was prepared by CPL-member NGO Hakastver team, and all partner sides of our project are ready to sign appropriate partnership agreement " (emphasis added).

12. On 29 December 2015, the Delegation replied that the decision not to award CPL the grant was taken in the context of the final step (3) of the evaluation process "*with the aim to determine the eligibility of your organisation and of the co-applicants .*" The Delegation stated that from the subsequent information it received from CPL (after Step 2), "*it was confirmed that CPL has no independent financial activity and no paid staff. The CPL experiences referred in the proposal are indeed coming from other organisations, mostly from the NGO Hakastver, but the latter are neither Co-Applicants, neither Affiliated entities with respect to this particular proposal. Furthermore, in the CPL Statutes there are no provisions that legally makes NGO Hakastver or other CPL associated NGOs financially responsible for CPL. In terms of risk management we cannot sign a grant contract with an organisation having no financial track record as the case is with CPL .*

We have taken good note of your proposal to allow NGO Hakastver to become financially responsible instead of CPL in this particular situation. However, for the sake of fair competition and equal rights for all tenderers, we must strictly adhere to the documentation you submitted with your initial proposal referred to above. We do not have the right to change your proposal "Ex-post" and allow NGO Hakastver to become financially responsible instead of CPL. We therefore still consider that CPL as Applicant did not meet the eligibility criteria and consequently we will not be in position to award you any grant under this particular call ."

13. On 8 January 2016, CPL asked the Head of the Delegation to review the Delegation's decision. CPL repeated that there is no condition that just because an organisation has a 'zero balance', it cannot apply for a grant. It stated that it meets all the eligibility criteria and that the fact that it meets the criterion that it must "*be directly responsible for the preparation and management of the action with [its] partners, not acting as an intermediary*" was "*reflected in the Declaration [which is part of the application form] and presented us [sic.] the mandate of all*



the partners of the project ".

14. CPL considered that the Chair of the Evaluation Committee, who signed the rejection letter, *" is unfamiliar with local laws and did [not] make the effort to find out what the Citizens Protection League NGO Association represents in legal terms. According to the letter, she regarded that the CPL is not an association of founder NGOs, but a collection of some random organisations not related to the Association.*

This is all the more surprising because, at the request of ... the Delegation ... (letter dated 12/03/2015), long before the refusal to sign the contract (23/12/2015) 07/12/2015, we submitted all the documents requested, namely: confirmation of a zero balance and explanation why CPL did not have financed activities ... ; documents confirming the activities of the organization; Charter organization and certifying the legal relationship between the CPL and its founders. "

15. According to CPL, step 3 of the evaluation process could lead to a rejection of the application only in the event of inconsistencies between what was stated in the application and the supporting documents. However, there were no such inconsistencies.

16. CPL submitted to the Ombudsman that had it known that first-time applicants would be considered ineligible, it would not have submitted a proposal. Its team visited seven remote mountain villages in one of the poorest regions of Armenia, it met and discussed the components of the project with a large number of ordinary people in the region, it reached an agreement with the leading European experts in agritourism in order to train the residents of the Tumanyan cluster, and involved many stakeholders. The expectations of all those people, including the village residents were raised after CPL was informed about the success of its application and they began preparing for the project. However, they now feel deceived and CPL's reputation has been damaged.

The inquiry

17. The Ombudsman opened an own-initiative inquiry and identified the following allegation and claim:

1) The decision of the European Union Delegation to Armenia not to conclude a Grant Contract with CPL is not based on sound reasons.

2) The Commission should conclude a Grant Contract with CPL.

18. The allegation and claimed were based on the following arguments:

1. After successfully completing Steps 1 and 2 of the evaluation process, CPL was informed (at the end of Step 3 of the evaluation process) that since it had *" no proven track record of any financial activities or experience of its own ... [it] did not meet the eligibility criterion which states that in order to be eligible for a grant, the applicant must be directly responsible for the preparation and management of the action with their partners, not acting as an intermediary]"* and the Delegation was not in a position to award it a Grant Contract. According to the Guidelines, step 3 was aimed at verifying (i) any incoherence between the Declaration by the



applicant and the supporting documents, and (ii) the eligibility of the applicants, the affiliated entities and the action. However, there was no incoherence and the applicant was eligible (the applicant is an association of NGOs and a legal entity in its own right).

2. Nothing in the Guidelines suggests that an applicant with " *no proven track record of any financial activities or experience of its own* " was ineligible. If that had been the case, the Guidelines should have stated so.

19. When opening the inquiry, the Ombudsman's inquiry team noted that, upon a reading of the Full Application submitted by CPL (especially Section 2.2 entitled 'Applicant's experience'), it could be concluded that it was true that CPL had already informed the Evaluation Committee that it had very little experience of its own and that its experience was based on that of the NGOs which formed it [7] .

20. Section 3.3 of the Full Application, entitled 'Capacity to Manage and Implement Actions', which included the following subsections: 'Financial data', 'Financing Source(s)' and 'Number of Staff' had been left blank by the complainant.

21. It appeared that any questions as to the complainant's experience and prior financial activities should have been raised in the course of Step 2 of the Evaluation process since during that step, the Evaluation Committee had to assess, among other things, the " *financial and operational capacity* " of applicants. However, such questions should not have been raised in the course of Step 3 of the Evaluation process, since it appeared that the exclusive purposes of Step 3 were to verify (i) any missing supporting documents and any incoherence between the Declaration by the applicant and the supporting documents, and (ii) the eligibility of the applicants, the affiliated entities and the action in accordance with the criteria set out in Sections 2.1.1[[8]], 2.1.2 and 2.1.3 of the Guidelines (see paragraph 4 above).

22. With regard to the issue whether the complainant is a legal entity in its own right, the Ombudsman's inquiry team pointed out that CPL had submitted a document which attests to the fact that the complainant is a legal entity and was registered with the State as such on 22 April 2003.

23. In light of the above considerations, the Ombudsman's inquiry team noted that the Commission appeared to have acted in a manner that was inconsistent with its Guidelines when it decided not to conclude a Grant Contract with the complainant for the reasons given in the Delegation's letter to the complainant dated 23 December 2015.

24. In the course of the inquiry, the Ombudsman received the reply of the Commission on the Ombudsman's request that it address CPL's concerns and, subsequently, the comments of CPL in response to the Commission's reply. This solution proposal takes into account the arguments and views put forward by the parties.

Allegation that the decision of the European Union Delegation to Armenia not to conclude a Grant Contract with CPL is not based on sound reasons, and related claim



Arguments presented to the Ombudsman

25. On 16 August 2016, the **Commission** informed the Ombudsman's inquiry team about the state of play of this case. The Commission considered that there were matters that the Commission, as the Contracting Authority, needed to examine further. It therefore instructed the Delegation to annul the decision of 23 December 2015 (see paragraph 10 above). It also asked the Delegation to reconvene the Evaluation Committee so that it would “ *re-evaluate the full application submitted by CPL (Step 2 of the procedure) under the first point of the Evaluation Grid ‘The financial and operational capacity’.* ” The Commission official responsible would then take a decision on the award on the basis of the Evaluation Committee's evaluation. The Commission stated that the Delegation would inform CPL of this and, subsequently, of the outcome of the re-evaluation process. The Commission would also keep the Ombudsman informed of the outcome.

26. Upon learning of the Commission's suggestion, CPL informed the Ombudsman's inquiry team (on 13 September 2016), that it considered the suggestion unacceptable because (i) CPL's proposal had already been evaluated and graded and CPL was acknowledged as one of the winners of the tender, and (ii) neither the content of CPL's complaint (which related to the issue of abuse of authority) nor the Guidelines justified a re-evaluation of the proposal.

27. CPL contended that the Commission's suggestion was “ *aimed at artificially and retroactively reducing the points received by [CPL's] program, ensuring that the program does not meet the threshold to be included in the winners' group* ”. That way, the Commission would solve a “ *difficult problem* ” and the officials' abuse of authority would not transpire.

28. CPL also referred to the principle of equality of all applicants. It considered that if there were any concerns about the objective evaluation of CPL's proposal, there was no guarantee that the other proposals had been evaluated accurately and objectively. Therefore, if CPL's proposal were to be re-evaluated, the proposals submitted by all the other applicants should be re-evaluated as well.

29. CPL considered that in contrast to the publicly announced EU rules on tenders, which do not lay down any discriminatory requirements concerning the financial experience of applicants, the Commission was applying “ *a non-declared policy on organisations with no financial experience* ”. CPL suggested that if that was the case, CPL should be replaced by NGO Hakastver as the applicant, since it is a co-founder of CPL and its team had prepared the proposal. It has extensive financial experience and an impeccable financial history. CPL had made this suggestion to the Delegation but it was rejected (see paragraphs 11 and 12 above). CPL regretfully noted the Delegation's selective interpretation of the rules: The EU officials took a decision which went beyond the established rules and, in particular, the requirements of Step 3, but they considered that this did not infringe any rules. However, when rejecting CPL's proposal to replace the applicant by NGO Hakastver, the EU officials referred to their strict adherence to the rules. CPL noted that it respects all the EU rules and requirements and that it was guided exclusively by them when submitting its proposal.



30. As had been promised by the Commission, on 15 September 2016, the Delegation sent a letter to CPL in which it stated that the Commission had thoroughly assessed the procedure for evaluating CPL's proposal. In the context of this assessment, it was revealed that STEP 2 of the evaluation process, as indicated by the Guidelines for this call, was not properly followed when evaluating CPL's full proposal. Consequently, the Contracting Authority had decided to reconvene the Evaluation Committee in order to re-evaluate the proposal in accordance with STEP 2 of the procedure, limitedly to the first point of the Evaluation Grid - "The financial and operational capacity". The Delegation informed CPL that it would rely on the financial information already provided concerning the financial capacity of the lead applicant. The Delegation invited CPL to "*clarify the status of the NGO Hakastver and the NGO Femida as affiliated entities with respect to this particular proposal*" within seven days of receipt of the letter.

31. CPL replied to the Delegation on 20 September 2016. It put forward the arguments which it had submitted to the Ombudsman's inquiry team on 13 September 2016 (see paragraphs 26 to 29 above).

32. In its reply of 12 October 2016, the Delegation stated that once the error in the evaluation under Step 2 was identified, "*the Contracting Authority assumed its responsibility to take proactive and immediate action to rectify it, in line with the principle of transparency and equality of the applicants*". This did not amount to abuse, but such action was required by the rules governing the award of grant contracts. The Delegation went on to state that "*as the error in the evaluation was only with CPL, there is no reason to re-open the evaluation for the other applicants. This conclusion is in line with the principle of proportionality.*"

33. The Commission contested CPL's statement that the Delegation had acted in a manner that went against its publicly announced rules on tenders. It contended that the financial experience requirement was included in the Guidelines and that no discriminatory limitation or non-declared policy had been applied. The Delegation also repeated its request that CPL clarify the status of the NGO Hakastver and the NGO Femida as affiliated entities with respect to this proposal.

34. Finally, with regard to CPL's request that it be replaced with NGO Hakastver as the main applicant, the Delegation asked CPL to confirm whether it wanted to submit a new proposal reflecting that change. However, it warned CPL that "*the Evaluation Committee will have to consider whether such new proposal ... will constitute a substantial change that would call into question the principle of equal treatment ... and whether such change is therefore acceptable at this stage of the procedure.*"

35. On 17 October 2016, CPL replied to the Delegation. It stated that it agreed with the Delegation's statement that the financial experience requirement was included in the Guidelines. It also agreed that during Steps 1 and 2 of the evaluation process, no discriminatory treatment was applied in respect of CPL. It clarified that its complaint regarding abuse or discriminatory treatment related solely to Step 3. It contended that there were no unwritten rules in the Guidelines relating to Step 2 concerning applicants participating in a tender for the first



time.

36. CPL stated that in the financial experience section of its application, it had presented the experience of three co-founders of CPL. The Evaluation Committee evaluated the experience of those three organisations as the founders of CPL. It made reference to the statement made by the Ombudsman's inquiry team that the complainant had already informed the Evaluation Committee that it had very little experience of its own and that its experience was based on that of the NGOs which formed it (see paragraph 19 above). In reply to the Delegation's request to clarify the status of NGO Hakastver and NGO Femida, CPL stated that both NGOs were founders of CPL, along with other NGOs.

37. CPL requested clarification concerning the Delegation's comment in response to CPL's request that it be replaced by NGO Hakastver as the main applicant (see paragraph 34 above). It asked whether that comment meant that the proposed replacement would require the application to go through the entire evaluation process (Steps 1 to 3). It stated that it had proposed the replacement "*in the format of [the] already evaluated proposal, without undergoing the whole new application process.*" That request was based on the fact that the application, which had passed Steps 1 and 2, had been developed by NGO Hakastver. In light of this, CPL asked the Delegation to consider either (i) signing the contract with the applicant CPL "*(possibly with additional responsibility of NGO Hakastver)*"; or (ii) replacing CPL by NGO Hakastver, as the applicant, "*in the format of the already evaluated proposal*".

38. Since the Ombudsman's inquiry team considered that it had enough information at its disposal to make a proposal for a solution to the Commission, it asked the Delegation to refrain from replying to CPL until the Commission was informed of the next step in this inquiry.

The preliminary assessment of the Ombudsman's inquiry team leading to the solution proposal

39. The first matter to be considered is whether the Commission's decision to reconvene the Evaluation Committee in order to re-evaluate the proposal in accordance with Step 2 of the evaluation process (limitedly to the first point of the Evaluation Grid - "The financial and operational capacity") is justified. On 15 September 2016, the Delegation informed CPL that the Commission had taken this decision because the Commission's assessment of the evaluation process revealed that the Evaluation Committee had not properly followed Step 2 of the evaluation process, as indicated by the Guidelines for the Call, when evaluating CPL's full proposal. It is worth noting that CPL was informed that it had passed Step 2 of the evaluation process on 6 November 2015, that is over ten months earlier.

40. In this context, the Ombudsman's inquiry team finds it useful to refer to the well-established case-law of the Court of Justice of the European Union [9] which lays down that the retroactive withdrawal of a legal measure which has conferred individual rights or similar benefits is contrary to the general principles of law.



41. The Delegation's decision of 6 November 2015 considering CPL to have passed Step 2 of the evaluation process gave CPL the right to be evaluated under Step 3 of the evaluation process and, if successful in Step 3, to be awarded the grant.

42. In the special circumstances of this case, it may be considered that the Delegation's decision of 6 November 2015 was lawful. It appears that the Evaluation Committee was entitled to consider that CPL had the requisite financial and operational capacity in light of the financial and operational capacity of the NGOs that composed it. In any event, if the Evaluation Committee made an error of assessment, CPL (which cannot be accused of having misrepresented its financial and operational capacity), should not be prejudiced by such an error.

43. It follows that the withdrawal of the Delegation's decision of 6 November 2015 would appear to be contrary to the general principles of law. It is true that the Commission has not (yet) withdrawn that decision. However, a consequence of the re-evaluation of the proposal could be the withdrawal of that decision. Therefore, it would not be advisable for the Commission to maintain its decision to ask the Delegation to reconvene the Evaluation Committee in order to re-evaluate CPL's proposal.

44. Moreover, with regard to Step 3 of the evaluation process, it appears that there was no reason for the Delegation to consider that CPL should not pass that Step. As the Ombudsman's inquiry team has already explained to the Commission, it appears that Step 3 was aimed at verifying (i) any incoherence between the Declaration by the applicant and the supporting documents, and (ii) the eligibility of the applicants, the affiliated entities and the action. With regard to point (i), there does not appear to be any incoherence between CPL's Declaration and the supporting documents. As for point (ii), it appears that CPL was eligible: it is an association of NGOs and a legal entity in its own right. Moreover, nothing in the Guidelines suggests that an applicant with no proven record of any financial activities or experience of its own was ineligible. Consequently, it appears that the reasoning upon which the Delegation's decision of 23 December 2015 was based (see paragraph 10 above) was flawed.

45. It thus appears that the Commission acted in a manner that was inconsistent with its Guidelines when it decided not to conclude a Grant Contract with CPL.

46. In light of the above, the Ombudsman's inquiry team makes the preliminary finding that the Commission's decision not to conclude a Grant Contract with CPL constituted maladministration. The Ombudsman's inquiry team therefore makes a corresponding proposal for a solution below, in accordance with Article 3(5) of the Statute of the European Ombudsman.

The proposal for a solution

Taking into account the above findings, it is proposed that the Commission (i) maintain its decision to instruct the Delegation to annul its decision of 23 December 2015 (relating to Step 3 of the evaluation process), (ii) withdraw its request to the Delegation that it reconvene the Evaluation Committee in order to re-evaluate the proposal in accordance with Step 2 of the evaluation process, and (iii) conclude a Grant Contract with CPL without delay.



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Strasbourg, 03/11/2016,

[1] Decision of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (94/262/ECSC, EC, Euratom), OJ 1994 L 113, p. 15.

[2] The Treaty on the Functioning of the European Union and the Statute of the European Ombudsman set certain conditions as to the opening of an inquiry by the Ombudsman. One of these conditions is that the complaint must be lodged by a " *citizen of the Union or any natural or legal person residing or having his registered office in a Member State of the Union* ". This condition was not met by CPL, which is based in Armenia. However, the Ombudsman considered that there was a general interest in pursuing the complainant's case by means of an own-initiative inquiry, in accordance with Article 228 TFEU. This was because the complainant raised a number of arguments which did not appear to be without merit at first sight and which could negatively affect the reputation of the EU among NGOs operating in third countries.

[3] CPL applied under Lot 1. The title of the proposed action was " *Support to poverty reduction in Tumanyan region of Armenia through the development of agritourism* " (Ref: NEAR-TS/2015/10).

[4] For example, the applicants had to submit the statutes or articles of association of the applicant; an external audit report certifying the applicant's accounts for the last financial year available; and a copy of the applicant's latest accounts.

[5] Section 2.1.1: " *In order to be eligible for a grant, the applicant must: be legal persons **and** be non-profit making **and** be directly responsible for the preparation and management of the action with their partners, not acting as an intermediary...* "

[6] PADOR stands for 'Potential Applicant Data On-Line Registration', which is an on-line database in which organisations register as potential applicants to calls.

[7] This could be inferred from the following statements contained in Section 2.2 of the Full Application: " *Citizens' Protection League ... is an association of five NGOs - Hakastver, Femida, Achilles Drivers' Rights Protection Society, Centre for Bird Lovers, and Next Generation (charity) ...*

Recently, ... CPL's strategy has changed and more efforts are taken to ensure the development of



the league as an organisation per se. We are considering this project as an opportunity to show that organisations with different missions can work as one unit not only on advocacy issues but also on development. We believe that our work on the development of Tumanyan cluster thus can serve an example for other coalitions.

Below are some of the EU-funded projects, implemented by the CPL organisations led by, or with participation of, the project team members.

Hakastver NGO has a substantial experience in implementing all the actions within the proposed projects. Overall, during the period from 2001, the main accomplishments of Hakastver's past projects include: ...

Femida NGO has many years of experience in all areas of the proposed activity, including: ... "

[8] Section 2.1.1: "*In order to be eligible for a grant, the applicant must: be legal persons **and** be non-profit making **and** be directly responsible for the preparation and management of the action with their partners, not acting as an intermediary...* "

[9] See, for example, judgment of the Court of Justice of 22 September 1983, *Verli-Wallace v Commission* , 159/82, ECLI:EU:C:1983:242.