

Reply of the Commission to a proposal for a solution from the European Ombudsman
- Complaint by European University Association, ref. 429/2022/SF

1. SUMMARY OF THE FACTS

In 2014, the Commission awarded the grant contract DCI-ASIE/2014/351-982 ‘*The EU Support to Higher Education in ASEAN Region (EU SHARE)*’ (hereinafter ‘the project’) to the British Council (hereinafter ‘the grant coordinator’). The consortium included five co-beneficiaries entrusted with the implementation of the project, among which the European University Association (hereinafter ‘the complainant’).

An external audit covered the period between 5 January 2015 and 4 January 2018.

In 2017, upon submission of a payment request for the expenditures incurred between 5 January 2016 and 4 January 2017, the Commission performed a check. The Commission established that the amount of EUR 9 668 was ineligible due to the absence of appropriate supporting documents.

On 11 June 2018, the grant coordinator submitted supporting documents including an employment contract of the relevant staff member for which the expenditure was considered ineligible. After further checks, the Commission informed the grant coordinator that the Commission would not be able to proceed with the payment of ineligible costs.

The contract was closed in 2021 and the grant coordinator accepted the final amount paid by the Commission.

Please see the Commission’s earlier reply for a complete summary of the facts.

2. THE COMPLAINT TO THE EUROPEAN OMBUDSMAN

The complainant considers that the Commission wrongly rejected staff costs amounting to EUR 9 668 as ineligible.

3. EUROPEAN OMBUDSMAN’S INQUIRY

On 21 November 2023, the European Ombudsman concluded ‘that the Commission has not provided sufficient explanations to justify its decision to deem the costs ineligible’. Thus, the Ombudsman proposed that the Commission should review its decision on the costs it deemed ineligible and pay the complainant the amount it had withheld of EUR 9 668.

4. THE REPLY OF THE EUROPEAN COMMISSION

The Commission has assessed the proposal of the European Ombudsman, and it agrees with the European Ombudsman’s assessment.

Considering that the employment contract provided by the complainant falls under the Belgian employment law, and in the absence of official EU guidance on the minimum requirements for an employment contract, the Commission has reviewed its decision.

The Commission incurred an error in its evaluative assessment not to qualify such a contract as a valid employment contract under Belgian law. As such, and in line with the Belgian employment law to which this grant contract is subject to, the Commission has decided to revise its initial decision.

The Commission recognises that the contract provided by the complainant for the staff member in question fulfils the minimum requirements to be considered as a valid employment contract under Belgian law, and that the related costs are eligible.

5. CONCLUSIONS

After having duly assessed the Ombudsman's proposal, the Commission has decided to accept the proposed settlement and to recognise as eligible the amount of EUR 9 668. Therefore, the Commission will proceed with the payment to the grant coordinator of the amount of EUR 9 668 initially deemed ineligible. The grant coordinator acts as intermediary between the Commission and the complainant and is therefore responsible for paying the concerned amount to the complainant.

For the Commission

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Member of the Commission