

**Opinion of the EASME on the European Ombudsman's further remarks  
- Own initiative inquiry, ref. OI/8/2013/OV**

---

**I. THE INQUIRY**

By letter of 25 March 2015 the European Ombudsman closed down the own initiative inquiry after the EASME accepted the draft recommendations and established a review procedure with regard both to calls for proposals under the Horizon 2020 Programme and calls under the COSME, LIFE and EMFF programmes.

The European Ombudsman provided the following further remarks:

1. Set up an Admissibility and Eligibility Review Committee for the COSME, LIFE and EMFF Programmes for reasons of consistency with the Horizon 2020 Programme.
2. Amend the relevant chapters of the Manual of Procedure and other documents intended for applicants including that the review of alleged 'procedural shortcomings' can also cover manifest errors of assessment.

**II. THE AGENCY'S OPINION**

The Agency accepts the further remarks of the European Ombudsman.

The Agency provides a detailed description on the actions taken to implement the further remarks.

**1. Setting up of an Admissibility and Eligibility Review Committee for the COSME, LIFE and EMFF Programmes**

The Admissibility and Eligibility Review Committee was set up on 25 September 2015. Please see the EASME decision in Annex 1.

The role of the Committee is equivalent to the role of the Admissibility and Eligibility Review Committee for the Horizon 2020 Programme.

The internal committee is convened after having received requests for review on admissibility and eligibility of proposals related to a call for proposals. It only examines complaints lodged before evaluation, on the basis of non-fulfilment of either admissibility or eligibility criteria.

The unsuccessful applicant has 30 days from the dispatch of the rejection letter by the Agency to request a review by the means communicated in the rejection letter.

The committee is composed of the Head of Unit/ the call coordinator or Project adviser in charge of the call, a legal officer and a call coordinator of another call. Other staff may attend if necessary.

In accordance with Article 6 of the Procedure, the committee will issue a motivated recommendation to the attention of the authorising officer by sub-delegation. In the event that the committee considers that the proposal complies with all eligibility and/or admissibility criteria, it will adopt a recommendation to evaluate the merits of the proposal.

The Authorising Officer by sub-delegation adopts a final decision on the basis of the recommendation of the committee. The communication to the complainant will include information on the means of redress of the Agency. Please see the template letter in Annex 2.

The Manual of Procedure of EASME has a dedicated chapter on the Admissibility and Eligibility Review Committee for all the programmes managed by the Agency. Please see the chapter in Annex 3.

EASME will communicate to its parent Directorate Generals the setting up of the internal Admissibility and Eligibility Review committees for the calls for proposals under the COSME, LIFE and EMFF programmes in the next meeting of the Steering Committee.

**2. Amendment of the relevant chapters of the Manual of Procedure and other documents intended for applicants including that the review of alleged 'procedural shortcomings' can also cover manifest errors of assessment.**

The Chapter XVIII- EVALUATION REVIEW COMMITTEE FOR COSME, LIFE, EMFF AND H2020 of the Manual of Procedures contains in its Section 2.5 the notion that procedural aspects of the evaluation comprise procedural errors, factual errors, or manifest errors of assessment. Please see chapter in Annex 4.

This notion is emphasized in the internal note to all Heads of Department dated 24 February 2015 on the scope of the review procedure, in which the recommendations issued by the European Ombudsman are taken into consideration. Annex I and II of the note include the factual errors and the manifest errors of assessment as procedural shortcomings. The note complements the chapter XVIII on the review committee and is part of the documentation. Please see the note in Annex 5.

Regarding the documentation intended to the applicants, the guide for applicants and/or the text of the non-Horizon 2020 calls for proposals launched by EASME shall include the following wording:

**"Administrative review procedures**

**1.- Evaluation Review procedure**

Unsuccessful applicants may request the review of the evaluation procedure of their proposals within one month after the dispatch of the communication to the applicants of the evaluation results. In case of proposals submitted on behalf of a consortium of applicants, the request must be raised by the coordinator.

The scope of the review will be limited to procedural aspects of the evaluation which includes procedural errors, factual errors, and manifest errors of assessment of the evaluation.

An internal Review Committee will be convened to examine each case. It is out of the scope of the Committee to review the merits of the proposal. The role of the Committee does not call into question the judgement of appropriately qualified experts and therefore it does not cover assessment by these experts with relation to the evaluation criteria.

The Committee provides specialist opinions on the implementation of the evaluation process on the basis of all the available information related to the proposal and its evaluation in the form of a report with recommendations on line of action for each request. In the light of its review, the Committee will recommend a course of action to the responsible authorising officer. Three recommendations are foreseen: (i) that the complaint is rejected as unfounded; (ii) that the complaint is upheld but the problem concerned did not jeopardise the decision whether or not to fund the proposal; (iii) that the complaint is upheld and a re-evaluation is recommended.

In all cases, a reply will be sent to the applicant within two weeks (ten working days) of the date of reception of the request for review. The Committee shall inform the applicant about the result of the evaluation review at the latest 2 months after the meeting of the Committee.

## **2.- Admissibility and Eligibility Review procedure**

Any unsuccessful applicant may request a review within 30 days from the date of the rejection letter by the Agency. The rejection letter shall indicate the means for submission of the request for review.

[Complaints on failed submission proposals due to an online submission system fault have to be submitted through the IT Helpdesk within 4 calendar days from the call closure date.]

The scope of the review will be limited to assess the fulfilment of either admissibility or eligibility criteria as laid down in the call for proposals.

An internal Admissibility and Eligibility Review Committee will be convened to examine each case. The Committee provides specialist opinions in the form of a report with recommendations on line of action for each request. In the light of its review, the Committee will recommend a course of action to the responsible authorising officer. Three recommendations are foreseen: (i) that the complaint is not eligible for admissibility/eligibility review; (ii) that the complaint is rejected as unfounded; (iii) that the complaint is founded, which may lead to the evaluation of the proposals/the participation in the action."

With these actions, the Agency considers having fulfilled the recommendations as well as the further remarks provided by the European Ombudsman.

### List of enclosures

- Annex 1: Decision on the setting up of an Admissibility and Eligibility Review Committee
- Annex 2: Template for admissibility and eligibility review result letters
- Annex 3: Chapter XVII Manual of Procedures
- Annex 4: Chapter XVIII Manual of Procedures
- Annex 5: Note on the scope of the review procedure for calls launched by EASME-H2020 proposals and extension to other non H2020 proposals- Limits to the mandate of the review committee



## DECISION ON THE SETTING UP OF AN ADMISSIBILITY AND ELIGIBILITY REVIEW COMMITTEE

THE DIRECTOR,

Having regard to the Decision on the Setting up of an Admissibility and Eligibility Review Committee for the Horizon 2020 programme<sup>1</sup>,

Having regard to the remarks of the European Ombudsman in the Decision closing own initiative inquiry OI/8/2013/OV concerning the EASME<sup>2</sup>,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular Article 41 thereof elaborating on the right to good administration,

Having regard to the LIFE Regulation<sup>3</sup>,

Having regard to the COSME Regulation<sup>4</sup>,

Having regard to the EMFF Regulation<sup>5</sup>,

---

<sup>1</sup> Decision on the Setting up of an Admissibility and Eligibility Review Committee for the Horizon 2020 programme of 30 July 2014

<sup>2</sup> Decision closing own initiative inquiry OI/8/2013/OV concerning the EASME of 25 March 2015

<sup>3</sup> Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007

<sup>4</sup> Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020) and repealing Decision No 1639/2006/EC

<sup>5</sup> Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council of 30 November 2011

Whereas:

There is the need to ensure an internal review procedure which would avoid potential Court cases,

There is the need to ensure a coherent interpretation and equal treatment of applicants regarding questions concerning admissibility and eligibility including failed submissions,

There is the need to ensure consistency among the programmes managed by the Agency,

An Admissibility and Eligibility Review Committee has been set up for the Horizon 2020 calls for proposals,

The Admissibility and Eligibility Review Committee shall be set up for LIFE, COSME and EMFF calls for proposals delegated to the Agency,

HAS DECIDED AS FOLLOWS:

#### CHAPTER I - ON THE SETTING UP OF THE ADMISSIBILITY AND ELIGIBILITY REVIEW COMMITTEE

##### *Article 1*

An internal Admissibility and Eligibility Review Committee (hereinafter 'the committee') is hereby set up for the LIFE, COSME and EMFF calls for proposals.

##### *Article 2*

The committee shall be appointed on the basis of requests for reviews for each call for proposals.

#### CHAPTER II - THE ROLE OF THE COMMITTEE

##### *Article 3*

The role of the committee is to examine requests for review on admissibility and eligibility of proposals with view to the basic act, the relevant work programme, the call for proposals, the Financial Regulation and its Rules for Application<sup>6</sup>.

#### CHAPTER III - PROCEDURE

##### *Article 4*

The committee shall be appointed by decision of the Authorising Officer by delegation.

---

<sup>6</sup> Notably Article 131 FR, 195, 196, 201 RAP.

*Article 5*

The committee is convened after having received requests for review. It must be re-convened if the committee had previously considered the proposal but the applicant has requested the review on the basis of new information that has come to light.

*Article 6*

The committee issues a motivated recommendation to the attention of the authorising officer by delegation. No dissenting opinions are allowed.

*Article 7*

If the committee considers that the proposal does not comply with all eligibility and/or admissibility criteria, it adopts a recommendation not to evaluate the merits of the proposal against the selection and award criteria.

*Article 8*

If the committee considers that the proposal complies with all eligibility and/or admissibility criteria, it adopts a recommendation to evaluate the merits of the proposal against the selection and award criteria.

CHAPTER IV - COMPOSITION OF THE COMMITTEE

*Article 9*

The committee is composed of the Head of Unit or the Call Coordinator or a Project adviser in charge of the call, a Legal Officer and a Call Coordinator of another call from another unit. An IT Officer shall be present as observer if necessary. Other staff with relevant expertise may attend if necessary.

*Article 10*

All members of the committee will sign a declaration on their absence of conflict of interest and confidentiality. This declaration of confidentiality shall cover data protection issues.

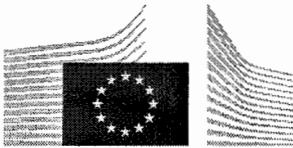
*Article 11*

In case of a conflict of interest, the member should communicate it in writing and abstain from taking part in the committee.

Done in Brussels, the **25 SEP. 2015** .....

Patrick Lambert  
Director

**TEMPLATE FOR ADMISSIBILITY AND ELIGIBILITY REVIEW RESULT  
LETTERS**



**EUROPEAN COMMISSION**

Executive Agency for Small and Medium-sized Enterprises (EASME)

Director/Head of Department

Brussels,  
EASME/PL/(2015)ARES

[insert name CoCo]  
[insert name of organisation]  
[insert legal address of organisation]

**Subject:** **Call for proposals:** [insert call/sub-call identifier] [OPTION for FPAs: —  
[insert name of topic]/  
[OPTION for SGAs: **Framework partnership:** [insert FPA number] —  
[acronym]]  
**Proposal:** [insert proposal number (project No)] — [acronym]  
**Request for admissibility or eligibility review** of [insert date] ([insert  
reference])

Dear [Madam]/[Sir],

I am writing in connection with the above-mentioned request for ‘admissibility and / or eligibility review’.

*[OPTION 1 if complaint not eligible for admissibility or eligibility review:* Having examined your request, we **regret** to inform you that we **cannot perform** such a **review** because [the request was not submitted by the coordinator]/[the request was submitted out of time (the deadline expired 30 days after receipt of the proposal rejection letter)]/[the request does not raise issues related to the rules on admissibility or eligibility.]

We thank you for your proposal and hope that you will not be discouraged from applying to other EU research programme calls in the future.]

*[OPTION 2 if the complaint is unfounded:* Having completed the [admissibility]/[eligibility] review, we would like to inform you that we did **not find grounds** to **support** your **complaint**.

The review confirmed that the decision to declare your proposal [inadmissible]/[ineligible] was taken in accordance with the applicable rules.

**CHAPTER XVII. ADMISSIBILITY AND ELIGIBILITY REVIEW COMMITTEE**

**TABLE OF CONTENTS**

XVII.1. Introduction..... 2

XVII.2. The role of the committee..... 3

XVII.3. Organisation and procedure ..... 4

XVII.4. The recommendation to the Authorising Officer (AO) ..... 4

## XVII.1. Introduction

This chapter sets out the procedure relating to the Admissibility and Eligibility Review Committee applicable to grants managed by the EASME under the programmes Horizon 2020, COSME, LIFE and EMFF.

This practice is based on the Rules of Participation of Horizon 2020 which foresee in its Article 17 (1) that "the Commission shall ensure the existence of a procedure for participants to make enquiries or complaints about their involvement in Horizon 2020".<sup>1</sup>

The Horizon 2020 Vademecum *-section on grant proposals* provides that an Admissibility and Eligibility Review Committee should be set up. Its role is to examine complaints and requests for reviews that may come after the call deadline.

As a matter of good administration and following the remarks of the European Ombudsman, EASME has set up an Admissibility and Eligibility Review Committee also for the calls for proposals launched under the other EU programmes managed by the Agency - COSME, LIFE and EMFF.

The Admissibility and Eligibility Review Committee examines complaints lodged on the basis of non-fulfilment of either admissibility or eligibility criteria.

The Admissibility and Eligibility Review Committee is thus different from the Evaluation Review Committee whose role is to examine complaints based on procedural grounds after evaluation of the proposal against the selection and award criteria.<sup>2</sup>

EASME has adopted two separate decisions to set up an Admissibility and Eligibility Review Committee for H2020 calls and for COSME, LIFE and EMFF calls<sup>3</sup>.

For H2020 calls, the Horizon 2020 Vademecum of the Commission foresees detailed rules and templates for the setting up and organization of the Committee. In case of conflict between the present chapter and the Horizon 2020 Vademecum, the Vademecum shall prevail. The latest version of the Vademecum with the relevant templates can be found [here](#).

---

<sup>1</sup> Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006 (Official Journal of the European Union L 347 of 20.12.2013, p. 81).

<sup>2</sup> See Chapter XVIII - Evaluation Review Committee of the Manual of Procedure

<sup>3</sup> See decisions in Annex

## **XVII.2. The role of the Committee**

Any unsuccessful applicant may request a review within 30 days from the date of the rejection letter by the Agency.

The rejection letter shall indicate the means for submission of the request for review: a dedicated functional mailbox, an address with the name of the responsible Head of Unit or other.

For proposals submitted through the Commission's Participant Portal, unsuccessful applicants can only request a review via the following website: <https://webgate.ec.europa.eu/redress-frontoffice/work.iface>. Note that complaints on failed submission proposals due to an online submission system fault have to be submitted through the IT Helpdesk within 4 calendar days from the call closure date.

The Committee examines thus only questions of admissibility or eligibility.

- a) Admissibility criteria are formal requirements related to the applications which must be complied with in order for the proposal to be evaluated<sup>4</sup>. The admissibility includes (1) that proposals have been submitted in the way requested by the call (using the application form and/or electronic submission system), (2) within the deadline published in the call and (3) that the integrity of the data is preserved<sup>5</sup>.

The Committee verifies that when proposals are not submitted on time this is not due to an act or omission to be attributed to the Agency/online submission system. If the Committee determines, after proper examination of the situation, that there was an act or omission to be attributed to the Agency/online submission system, the call coordinator/Head of Unit must ensure that the proposal is considered for the evaluation (and included in the submission system when applicable).

- b) Eligibility criteria are substantive requirements<sup>6</sup> which are defined in the call and must be complied with by the applicant in order for the proposal to be evaluated. They determine whether an applicant is allowed to participate in the call for proposals (for instance for reasons of nationality and/or legal status) and to submit a proposal for an action or work programme.

---

<sup>4</sup> Any formal requirement that could be complied with during the evaluation without substantial modification of the proposal should neither be formulated as an admissibility requirement, nor as an eligibility criterion. Therefore, if applications contain a formal deficiency which could be rectified during the evaluation (e.g. the application is not signed, a requested declaration is missing, etc.), such a deficiency should not lead to automatic elimination of the application. In addition, even if a formal requirement qualifies as an admissibility one, it is highly recommended in case of doubt to clarify the situation with the beneficiary before declaring the application inadmissible.

<sup>5</sup> See Article 195 RAP

<sup>6</sup> See Article 131 FR and Article 201 RAP. For Horizon 2020, see Article 10 of the Rules of Participation.

### **XVII.3. Organisation and procedure**

The Committee shall be made up of at least 3 persons. These should be the Call Coordinator/ Project officer in charge of the call/ Head of Unit, a Legal Officer and a Call Coordinator of another call from another unit. An IT Officer shall be present as observer if necessary. They will be appointed by the authorising officer by delegation for each call.<sup>7</sup>

The appointment decision should indicate substitutes to the Committee members. This would avoid the need of doing amendments to the appointment decision.

In order to prevent any conflict of interest, these persons are subject to the obligations laid down in Article 57 FR. Therefore each member of the Committee shall sign a declaration of confidentiality and of absence of conflict of interests before or during the opening of proposals. Any observer should also sign the declaration.

It is recommended to set up a Committee once the call deadline for submission of proposals has elapsed. The Committee will convene after having received requests for review.

The Committee shall meet on the convened date and discuss the matter on a confidential basis. It will issue a motivated recommendation to the attention of the authorising officer (AO)<sup>8</sup>. No dissenting opinions are allowed.<sup>9</sup>

### **XVII.4. The recommendation to the Authorising Officer (AO)**

As already stated, the recommendation to the AO must be properly motivated.

It should contain the following information:

- Number of requests for review received;
- Reasons for rejection after deliberation of the Committee;
- Reasons for acceptance after deliberation of the Committee.

The final decision is adopted by the AO on the basis of the recommendation. The AO will provide a reasoned decision in the event he/she does not follow the recommendation of the Committee.

The communication to the applicant whose request is not eligible for admissibility/review or is considered unfounded will contain information on the means for redress.<sup>10</sup>

---

<sup>7</sup> See Appointment template

<sup>8</sup> Head of Unit responsible for the call in the event it is not part of the Committee. If the Head of Unit is part of the Committee, the recommendation will be addressed to the Head of Department.

<sup>9</sup> See Record of the Admissibility and Eligibility Review Committee template

<sup>10</sup> I.e.: Appeal to the Commission according to Article 22 of Council Regulation 58/2003, action for annulment before the Court of Justice of the European Union under Article 263 TFEU, complaint to the European Ombudsman if the applicant believes that there was maladministration. See letter to applicant template.

**2. EVALUATION REVIEW COMMITTEE FOR COSME, LIFE, EMFF AND H2020****Table of Contents**

2.1. Introduction .....	2
2.2. The role of the "review committee" .....	3
2.3. Organization and procedure .....	3
2.4. Admissibility requirements .....	4
2.5. Examination requirements by the review committee .....	5
2.6. Outcome of the review committee .....	5
2.7. The Evaluation Review Office for H2020.....	6
2.8. The recommendation to the AOSD and information to applicants .....	7
2.9. Recommended steps to be followed.....	7
2.10. Overview Procedure.....	9

## 2.1. Introduction

If an applicant considers that the evaluation of his proposal was not carried out in conformity with the applicable rules such as the basic act, the work programme and the call, he/she can file a complaint/request for review of the evaluation procedure. This is the so-called "redress procedure" or "review procedure" which is purely internal to the Agency and applicable to grants managed by the EASME under the programmes COSME, LIFE, EMFF and H2020.

The review should be carried out by a committee specifically appointed for this purpose (hereinafter "the review committee").

The setting up of the review committee allows applicants to have the procedure of their evaluation reviewed. This practice is based on the Regulation laying down the rules for participation and dissemination in Horizon 2020<sup>1</sup>. According to Article 16 of the Rules for participation 'the Commission [...] shall provide a transparent evaluation review procedure for applicants which consider that the evaluation of their proposal has not been carried out in accordance with the procedures set out in this Regulation, the relevant work programme, work plan or the call for proposals.'

As a matter of good administration and following the draft recommendations of the European Ombudsman<sup>2</sup>, the evaluation review procedure has also been extended to the calls for proposals launched under the other EU programmes managed by the Agency – COSME, LIFE and EMFF.

EASME has adopted two separate decisions for the establishment of the review procedures for H2020 calls and for COSME, LIFE and EMFF calls<sup>3</sup>.

For H2020 calls, the draft Vademecum of Horizon 2020 foresees detailed rules for the setting up and organization of the above committee. In case of conflict between the present chapter and the Vademecum of the Commission, the last shall prevail. The latest version of the draft Vademecum can be found [here](#)

Rules that are exclusively applicable for Horizon 2020 are highlighted in this chapter.

<sup>1</sup> Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006 (OJ L 347, p. 81 of the 20.12.2013).

<sup>2</sup> Draft recommendations of the European Ombudsman in own-initiative inquiry OI/8/2013/OV dated 17/10/2014.

<sup>3</sup> See decisions in Annex.

## 2.2. The role of the "review committee"

The review committee examines complaints/requests for review that have been received within 30 days after the dispatch of the communication to the applicant of the evaluation results.

Its role is thus to examine complaints/requests for review **after evaluation**. Unlike the admissibility and eligibility committee, the review committee does not examine complaints/requests for review on rejection decided before evaluation.

The scope of the review will be limited to procedural aspects of the evaluation which includes procedural errors, factual errors, and *manifest* errors of assessment of the evaluation. It is out of the scope of the committee to review the merits of the proposal.

The role of the review committee is not to call into question the judgement of appropriately qualified experts and therefore it does not cover assessment by these experts with relation to the evaluation criteria.

The committee may play an important role by preventing potential complaints in front of the courts.

## 2.3. Organization and procedure

The first thing to be done when a complaint/ request for review arrives, is to send a receipt. This letter, which can be sent either by the Head of Unit responsible for the call or by the chairman of the review committee if already appointed, is called "holding reply". It has to be sent not later than **two weeks** after receipt and should give an estimate about when the final reply can be expected.

The review committee meets in different configurations corresponding to the different calls for proposals. In other words, for each call there must be a review committee provided that there are requests for reviews.

It shall be appointed by the authorising officer by sub-delegation.<sup>4</sup>

The appointment decision shall indicate already a substitute. This would avoid the need for doing amendments to the decision.

The review committee shall be made up of at least four members and may have observers attending the committee meetings. Observers do not have voting rights.

As a general rule, members should have a good knowledge of the evaluation procedure for calls for proposals.

---

<sup>4</sup> See [template](#)

The review committee shall have certain stability and thus shall be composed of two "permanent members" and two "floating members". This allows a certain rotation in the committees but ensures continuity within the group of committee members.

As to the permanent members they should be a Legal Officer and a Financial Officer.

As to the floating members they could be the following:

- A Chairman from a department different from the one of the call;
- The call coordinator or the Head of Unit/Head of Sector responsible for the call;
- A member from the parent DG responsible for the call;
- A staff member from a department different from the one of the call.

For committees reviewing complaints/requests for review under **H2020**, the following composition shall apply:

- Chairman from a department different from the one of the call;
- The call coordinator or the Head of Unit/Head of Sector responsible for the call;
- a Legal Officer;
- A member from the parent DG responsible for the call, if possible.

Each committee appoints a secretary. The secretary will also be floating depending on the call in question. In accordance with the chairperson, the secretary coordinates, prepares and does the follow up of the work of the committee and is the first contact point for any dealings with it. The secretary may or not be a committee member. In the first case he or she has voting rights. In the second he or she has the right to participate in the deliberations but does not have voting rights.

In order to prevent any conflict of interest, the members are subject to the obligations laid down in Article 57 of the Financial Regulation. Therefore each member of the committee shall sign a declaration of confidentiality and of absence of conflict of interests before or during the opening of proposals. Any observer should also sign the declaration.

#### **2.4. Admissibility requirements**

Following appointment by the authorising officer by sub-delegation, the call coordinator/Head of Unit shall convene the review committee.

In order to be eligible for the evaluation review procedure the complaint/request for review must be:

- Received before the deadline specified in the initial letter informing on the results (30 calendar days after the dispatch of the evaluation results);
- Submitted in the requested way, indicated in the letter to the unsuccessful applicant;

- Sent by the coordinator /single applicant of the proposal;
- Related to a procedural problem linked to the evaluation of a specific proposal on the basis of the evaluation summary report.

## 2.5. Examination requirements by the review committee

The work of the review committee is organised by the secretary together with the chairman and the call coordinator.

The review committee examines complaints/requests for review on procedural aspects of the evaluation – as opposed to substantial grounds - on the basis of the evaluation summary report, the proposal, the work programme, guidance documents for applicants, individual reports etc.

At a first stage, it examines the three main formal requirements, this is, a) the request for review has arrived before the deadline; b) it has arrived in the way requested in the letter to unsuccessful applicants and c) it concerns procedural aspects of the evaluation.

At a second stage, it examines the merits of the procedural aspects of the evaluation on the basis of the relevant legal instruments (Rules of Participation, Financial Regulation, relevant jurisprudence etc.). Procedural aspects comprise procedural errors, factual errors, or *manifest* errors of assessment.

In case of need the review committee is entitled to seek external advice from:

- "internal experts" or colleagues with a specialist knowledge;

For H2020 calls:

- Common Support Centre;
- Evaluation Review Office <sup>5</sup>

## 2.6. Outcome of the review committee

After deliberation, the review committee issues a recommendation addressed to the Authorising Officer by sub-delegation (AOSD). The recommendation should be issued by consensus.

For H2020 calls, the case should be brought to the attention of the so-called Evaluation review Office at the Commission if there is an absence of consensus. The Evaluation Review Office will help the committee to conclude.

<sup>5</sup> See point 7 of the present chapter.

There are three possible outcomes:

- a) Lack of proof about the alleged procedural error(s);
- b) Evidence about a procedural error(s) but no causal link with the alleged evaluation result;
- c) Evidence to support the complaint with causal link between the procedural error(s) and the evaluation result.

In cases a) and b) the request will be rejected while in c) it will be accepted and a re-evaluation on the merits of the proposal will be made.

As an example, procedural error(s) may include:

- Lack of technical competence of the experts;
- Factual errors in the Evaluation Summary report;
- Conflicts of interest;
- Lack of coherence between scores and comments.

## **2.7. The Evaluation Review Office for H2020**

The review committee shall always inform the so-called Evaluation Review Office of its draft conclusions.

The Evaluation Review Office is set up by the Commission and its role is to register, coordinate and monitor the evaluation of complaints/requests for review. It also monitors and coordinates the review procedures and ensures that policy is coherent and consistent over time, based on precedents.

The Evaluation Review Office may be consulted and thus requested to provide advice during the procedure. In addition, the draft conclusions of the committee must be sent to it for approval before they are sent to the authorising officer by sub-delegation. The review committee will highlight any particular different cases and cases where outcomes b) and c) of point 2.6 are envisaged.

The Evaluation Review Office shall have ten days to object or to give an opinion.

## 2.8. The recommendation to the AOSD and information to applicants

Once the Evaluation Review Office has given its opinion for **H2020** calls, the review committee may inform the AOSD.

The committee shall draw up a record following each committee meeting per call. This record issues a recommendation to the Authorizing Officer by sub-delegation (AOSD).

The recommendation to the AOSD should be properly motivated. It should contain the following information:

- Numbers of complaints/requests for review received;
- Reasons for rejection after deliberation of the committee;
- Reasons for acceptance after deliberation of the committee.

The final decision is adopted by the AOSD on the basis of the recommendation. The communication to the unsuccessful applicant will contain information on the means for redress.<sup>6</sup> It will indicate that no further internal reviews are possible.

The communication cannot be sent later than **four months** after the receipt of the complaint, except in duly justified cases. In other words, the four months are the internal deadline of the Agency.

If the AOSD decides to re-evaluate proposals, this should be done by independent evaluators not involved in the committee or the original evaluation. The re-evaluation should be made on the merits of the proposal. Any re-evaluation is solely based on the proposal originally submitted.

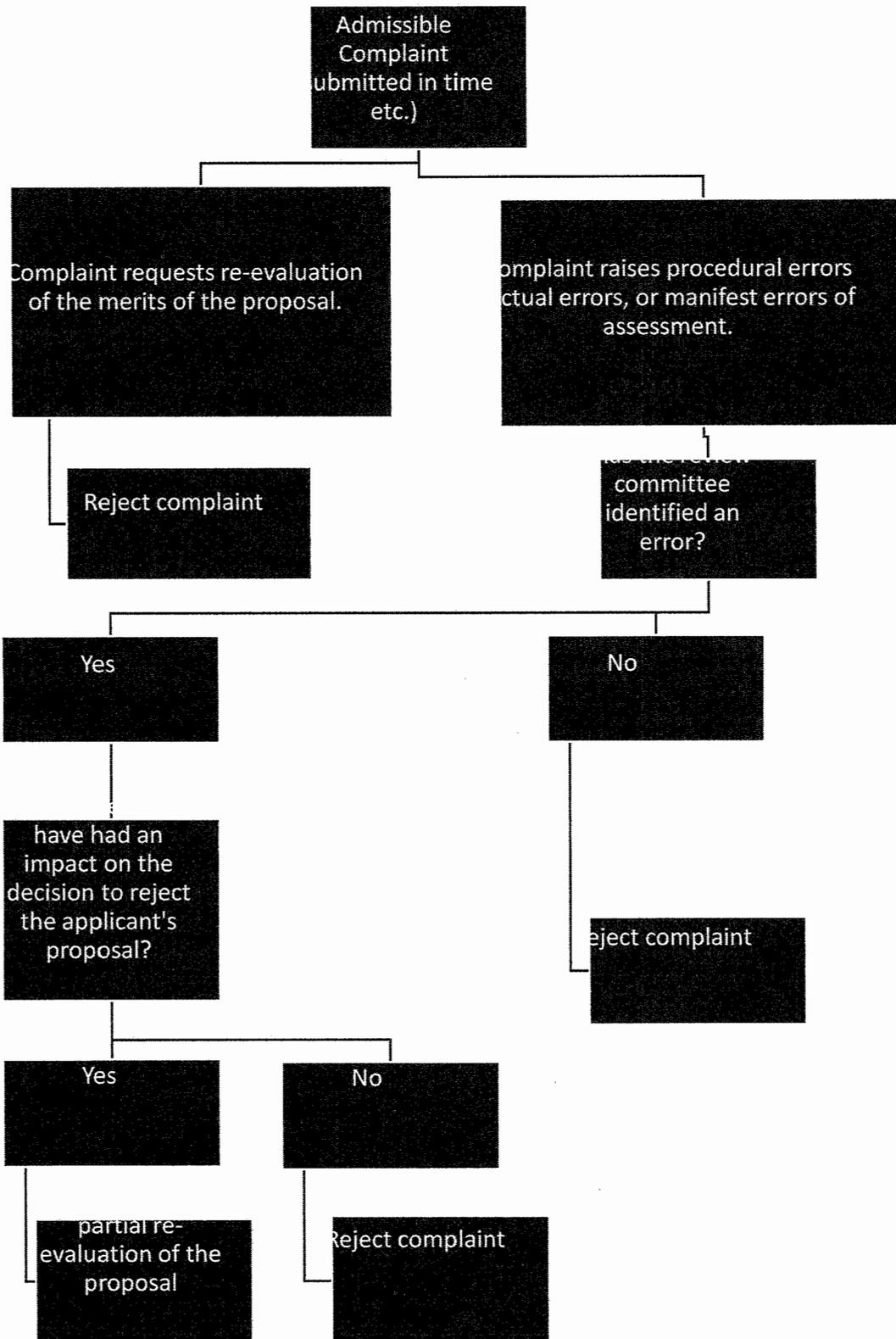
## 2.9. Recommended steps to be followed

Step 1	Results of the evaluation are sent to the applicants.
Step 2	Complaints/requests for review are examined if received no later than 30 days after the dispatch of the evaluation results.
Step 3	Holding replies shall be send to complainants no later than 2 weeks after receipt of the complaint/request for review.

<sup>6</sup> These are: appeal to the Commission under Article 22 of Council Regulation n. 58/2003 within one month; action for annulment before the General Tribunal of the European Union under article 263 Treaty on the Functioning of the European Union (TFEU); complaint to the European Ombudsman within two years.

Step 4	<p>The committee meetings shall be planned well in advance. To facilitate the meetings, the secretary of the committee may prepare the following documents:</p> <ol style="list-style-type: none"> <li>1. An introductory note for the committee members, explaining briefly the role of the committee and the scope of its work.</li> <li>2. An excel table summarizing the complaints/requests for review. The complaints/requests for review should be organized according to subject matter. This ensures consistency in answers for the same complaints/requests for review.</li> <li>3. A note including sentences that could serve as possible answers to the complainants.</li> </ol>
Step 5	<p>During the meeting, the chair of the committee may explain the possible outcomes of the review on the basis of the options in the template letter to complainants. The options are:</p> <p>OPTION 1: if complaint not eligible for evaluation review</p> <p>OPTION 2: if the complaint is unfounded</p> <p>OPTION 3: if the complaint is founded, but no influence on overall outcome</p> <p>OPTION 4: if (full or partial) re-evaluation</p> <p>The complaints/requests for review shall be analysed thoroughly and a conclusion shall be reached. The committee shall adapt a position of the committee based on the prepared answer sentences of the secretary. [In complex cases, the committee may consult the Common Legal Support Service for <b>H2020</b> calls.]</p>
Step 6	<p>The secretary prepares the letters to the complainants [and sends the draft conclusions to the Evaluation Review Office for <b>H2020</b> calls.]</p>
Step 7	<p>The committee shall inform the applicant about the result of the evaluation review at the latest 2 months after the meeting of the committee.</p>
Step 8	<p>The time to deal with all complaints/request for review should not exceed 4 months from the deadline for submitting complaints/requests for review.</p>

## 2.10. Overview Procedure





EUROPEAN COMMISSION  
Executive Agency for Small and Medium-sized Enterprises (EASME)

Department C – Finance and Administration

Brussels, 24.2.2015  
EASME/GP/EF/Ares(2015)

**NOTE TO THE ATTENTION OF ALL HEAD OF DEPARTMENTS**

**Subject: The scope of the review procedure for calls launched by EASME– H2020 proposals and extension to other non H2020 proposals- Limits to the mandate of the review committee**

**Ref.: Director's decisions on the setting up of the Evaluation Review Committee Ares(2014)2590478 and the Eligibility and Admissibility Committee Ares(2014)2538413**

By the present note I intend clarify the scope and limits of the review procedure applicable to H2020 and to the other programmes managed by the Agency.

The legal basis for the review procedure comes directly from Article 16(1) of the H2020 Rules for Participation according to which "The Commission shall provide a transparent evaluation procedure for application that consider that the evaluation of their proposal has not been carried out in accordance with the procedure set out in this regulation."

More specifically, Article 16(3) states that "the examination shall only cover the **procedural aspects** of the evaluation and not the merits of the proposal". (bold added)

Your attention is drawn to the fact that any review procedure should be limited to the procedural aspects of the evaluation only. The merits of the proposal or its technical aspects cannot, at any rate, be re-examined by the review committee.

In addition when a request for review concerns the merits of the proposal (re-examination of the award criteria) the review committee should dismiss it directly with a standard phrase "The request for review concerns an issue of non-procedural nature and therefore is out of the scope of the review committee to examine it."

In an annex you will find a non-exhaustive list of procedural shortcomings that may be examined by the review committee.

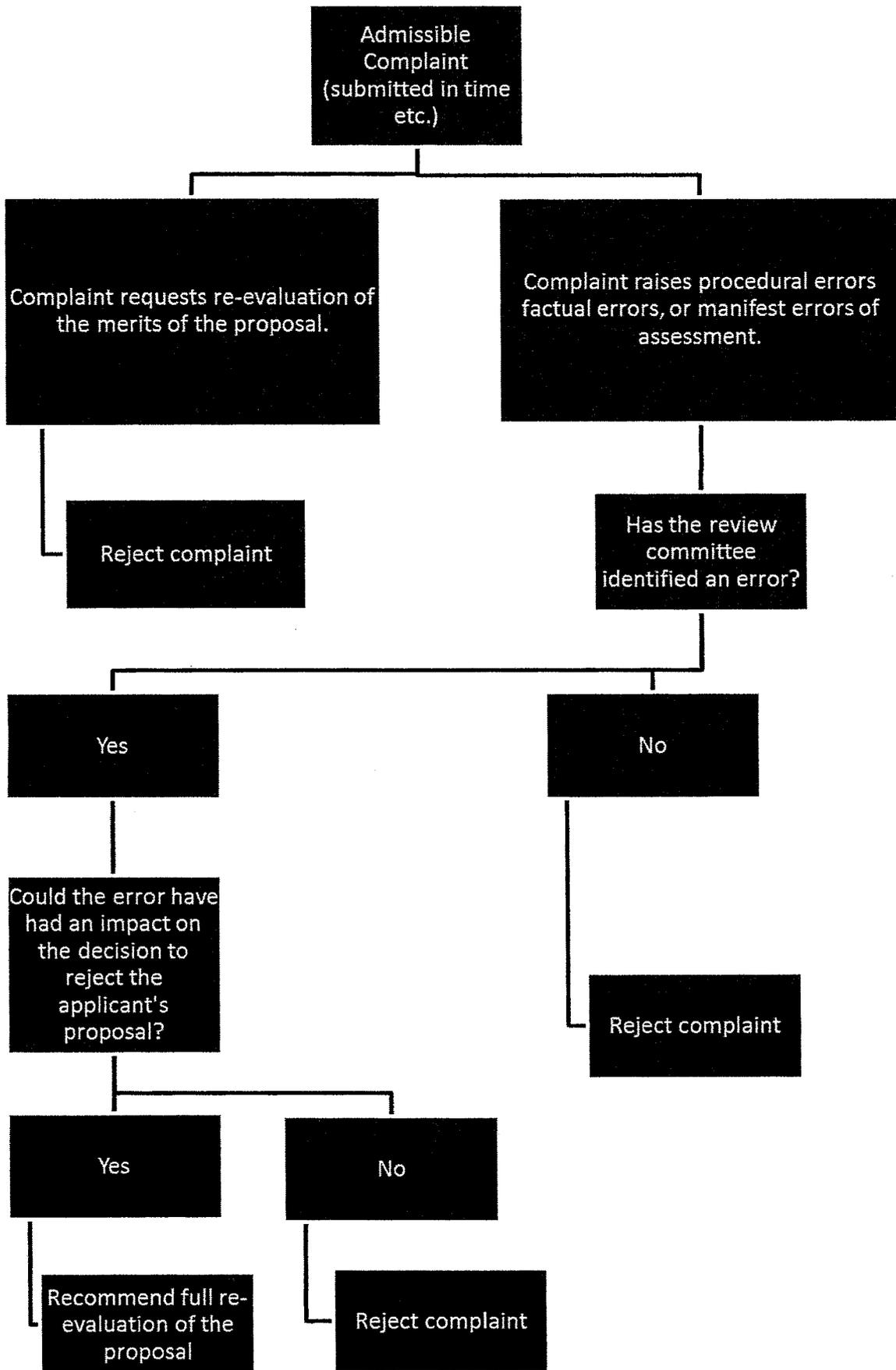
Gianluca PECCHI

Annex I: Examples of procedural shortcomings  
Annex II: Charter flow

**EXAMPLES OF PROCEDURAL ASPECTS**

In the light of the recommendations issued by the European Ombudsman, procedural shortcomings should encompass also factual errors and manifest errors of assessment. In particular procedural shortcoming may include:

- Lack of technical competence of the experts.
- Factual errors in the Evaluation Summary report.
- Conflicts of interest.
- Lack of coherence between scores and comments.
- Mathematical mistakes in the summing up of scores.
- Lack of motivation of conclusions.



⚠ Please be aware that you **cannot take more than one formal action** at a time. If you request a review procedure, you cannot — at the same time — file an Article 263 TFEU action. You must **wait for the final decision** of the Commission and can then take further action against that decision.

*[OPTION if multi-beneficiary proposal: I would be grateful if you could inform the other members of your consortium of this letter.]*

Yours sincerely,

[insert name]

Authorising officer

[Please find enclosed the position of the admissibility and eligibility review committee that assisted with the review.]

We thank you for your proposal and hope that you will not be discouraged from applying to calls of EU programme in the future.]

*[OPTION 3 if complaint is founded:* Having completed the [admissibility]/[eligibility] review, we would like to inform you that we consider your complaint **well founded** and will undertake an **evaluation** of your proposal.

[Please find enclosed the position of the admissibility and eligibility review committee that assisted with the review.]

We apologise that the process fell short of our normal standards. We will contact you as soon as the evaluation results are known.

For further questions, please contact the **project officer**, via the ['My Area' section of the Participant Portal] [if applicable please indicate other means of communications] .]

You have the right to lodge a complaint before the European Ombudsman if you believe that there was maladministration, within two years from the date you became aware of the facts on which the complaint is based (see <http://ombudsman.europa.eu>).

You may also refer the present decision for review of its legality by the Commission<sup>1</sup> within one month of receiving this letter to the following address: [please insert address, email, contact person etc. of the parent DG]

You may bring an 'action for annulment' under Article 263 of the Treaty on the Functioning of the European Union (TFEU) against the Agency within two months of receiving this letter.

The Court responsible for hearing annulment procedures is the General Court of the European Union:

General Court  
Rue du Fort Niedergruenewald  
L-2925 Luxembourg  
Tel.:(+352)43031, Fax: (+352)43032100  
Email: [GeneralCourt.Registry@curia.europa.eu](mailto:GeneralCourt.Registry@curia.europa.eu)  
URL: <http://curia.europa.eu>

Any request or complaint you may make and any reply will have neither the purpose nor the effect of suspending the deadline:

- a) for lodging an action for annulment of the present decision, which must be done within two months of notification of this letter or
- b) for lodging an action for annulment of the Commission decision, confirming the present decision, which must be done within two months of notification of the said Commission decision.

<sup>1</sup> According to Article 22 of the Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes. OJ L11 of 16.01.2003.