



Médiateur européen

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Date d'arrivée



Parliamentary  
and Health Service  
Ombudsman

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31 May 2016

*Dear Emily*

**Re: Transparency and respect for human rights in the context of Export Credit Agencies (ECAs), and the Asylum, Migration and Integration Fund (AMIF)**

Thank you for your letters dated 17 December 2015 and 28 April 2016 and apologies for the delay in responding.

### **Export Credit Agencies (ECAs)**

I welcome the focus of your office on transparency and the spotlight being shone on human rights and the environment. On your more general point about increased cooperation between national agencies and the Commission, I believe that this would be a positive step in ensuring consistency and adherence to expected standards or service.

I read your proposals around credit exports with interest. The Export Credits Guarantee Department (ECGD) or UK Export Finance (UKEF) as its trading name, is the UK's export credit agency. As a government department the ECGD falls under our jurisdiction; in addition, aspects of its work are also scrutinised by the Serious Fraud Office (SFO), the Department for Business, Innovation and Skills (BIS) and the Foreign and Commonwealth Office (FCO).

Unfortunately, we are not in a position to launch a parallel inquiry in this area. Whilst the ECDG is a department we can investigate, we do not presently have a body of complaints that would be relevant to this work. Furthermore, as you will be aware, we are currently unable to launch an investigation on our own initiative and the scope of any inquiry would be limited to examining instances of maladministration. We would be unable to investigate explicitly the ECDG's observance of human rights or its work on environmental impact

In the UK there is also an expectation that questions relating to compliance with human rights are best addressed by the courts. Consequently, some of the scrutiny of the ECDG's work is undertaken through legal representation or judicial review. Key NGOs that work in this area, such as The Corner House and the Campaign Against Arms Trade, have made a number of successful representations about the ECDG, particularly where there have been concerns about human rights.

#### **The Asylum, Migration and Integration Fund (AMIF)**

We agree that it is vital that EU member states fulfil their obligations to be transparent about how EU funds - such as the AMIF - are spent and projects implemented. The UK Government published its National Programme of the AMIF in August 2015. Thus, accessing the national programme and scrutinising its implementation is less of a challenge for public organisations, regulators or ombudsmen in the UK. The UK programme can be found on the Government's website at: [www.gov.uk/government/publications/asylum-migration-and-integration-fund-programme](http://www.gov.uk/government/publications/asylum-migration-and-integration-fund-programme).

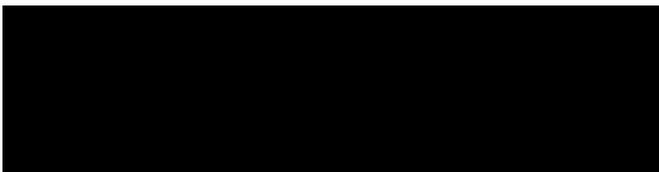
Over half of the UK Government's use of the AMIF has been designated to the development of its returns strategy, both voluntary and enforced. The national objective is to increase effectiveness in this area and develop new initiatives such as increased joint-working with other member states and new measures to strengthen the UK's returns strategy. The other priorities in the UK's use of the AMIF are supporting and strengthening the asylum process (20% of funding) and supporting legal migration and integration measures (also 20% of the funding), mainly through the Government's localism agenda.

In respect of the issues raised in your letter, we have not seen casework which relates to the human rights of asylum seekers and resettled persons in the context of the use of the AMIF. While we do not have an official or formal role in scrutinising human rights compliance by national authorities when they use EU funds, we do have a role to play in

examining complaints about UK departments or agencies such as the Home Office and UK Visas and Immigration (UKVI), which deliver important services in the asylum and immigration system. As part of these investigations it is often appropriate to look at whether the Home Office has properly considered a person's human rights. However, we do not have formal powers to find a breach of a person's human rights, only the courts can make such a finding. Additionally, organisations such as the Prisons and Probation Ombudsman (PPO) and the Independent Chief Inspector of Borders and Immigration may be more likely to assess compliance with human rights under the UK's strategy.

I am sorry that we are unable to contribute to any body of work on ECAs or the AMIF at this moment in time. I believe that there is an overarching point to both of these issues in that as an organisation we are more inclined to look at injustice as a result of maladministration or service failure, as opposed to compliance with human rights. There is also an expectation in the UK that these kinds of issues are best left to the courts and as such they are less likely to appear in our casework. That being said, were there to be an examination at the European level of the overall standard of public administration where we have a body of casework - such as in the immigration, health or justice sectors - this may be an area of work that we could add value to in relation to the situation in the UK.

Yours sincerely,



Dame Julie Mellor, DBE  
Chair and Ombudsman, PHSO