DATE

Reply of the Commission to the suggestion for improvement from the European Ombudsman
- Complaint by Mr Alexandre Matos da Rocha, ref. 626/2021/AMF

I. BACKGROUND/SUMMARY OF THE FACTS/HISTORY

A. Summary of the complaint

The complainant, Mr Alexandre Matos da Rocha, was selected to participate in a staff mobility exercise in the framework of an Erasmus+ International credit mobility project (KA107) awarded in 2018 between Universidade do Minho in Portugal (home university) and Hashemite University in Jordan (host university). Due to the outbreak of the COVID-19 pandemic, he was not able to realise the mobility at the time when it was planned (summer of 2020).

The complaint concerns the Commission´s decision not to extend the duration of the 2018 project funded under the Erasmus+ programme. The complainant is concerned that, if the project is not extended, he will not be able to carry out a planned exchange with the Jordanian university, which had to be postponed due to the COVID- 19 pandemic.

In response to the COVID-19 pandemic, the Commission has taken different measures in order to ensure increased flexibility for programmes. This includes a decision to extend the duration of 2018 projects by up to 12 months (per project), in order to allow the postponement of activities. This decision applied across the whole Erasmus+ programme, and the project of Mr. Matos da Rocha was extended accordingly to 38 months. The project is currently expected to be finalised on 31 July 2021.

Mr Alexandre Matos da Rocha established contacts with different institutions and authorities, including the sending university (Universidade do Minho in Portugal), the Portuguese National Agency, the Portuguese Ombudsman, the Cabinet of Commissioner Gabriel and the European Ombudsman. In his exchanges with the sending institution, it has been stressed that the mobility period has to be carried out by the end of July 2021. The Portuguese National Agency has confirmed that the university reply was in line with the Commission's guidelines. The Cabinet of Commissioner Gabriel has forwarded Mr Matos da Rocha's complaint to DG EAC, where a timely response has been offered outlining the options he had, both as a current participant of the programme and as future applicant.

Universidade do Minho was awarded other KA107 projects with Hashemite University of Jordan under the 2019 and 2020 calls. In this sense, as a possible solution to the issue, Mr. Rocha was encouraged by the National Agency and by the Commission to explore whether opportunities for mobility could be still available within these calls. Given that KA107 is a decentralised action, the beneficiary (Universidade do Minho as a member of mobility consortium of Portuguese Higher education institutions) is responsible for the establishment and carrying out of the selection procedure together with the receiving institution. Neither the National Agency, nor the Commission could interfere or influence the process. In order to be selected for the subsequent years' projects, Mr Rocha would have to apply and compete on an equal footing with all other candidates.

During their selection procedures, higher education institutions are recommended to check whether certain candidates had already participated in the given action in order to give priority to participants that have not yet benefitted from the programme. Mr Rocha had carried out a mobility in Canada within the framework of a previous 2018 KA107 project, coordinated by the same university1. Nonetheless, it is entirely up to the beneficiary (sending institution) to select him again as participant in one of the projects awarded in subsequent calls (2019 and/or 2020).

Based on the information received from the Portuguese National Agency, the option of a virtual mobility was not included in the correspondence with the complainant, since the objective of the complaint was performing a physical mobility beyond the allowed timeline. Nevertheless, it is useful to remind that both the Portuguese National Agency and the beneficiary are aware of this possibility, introduced by the Commission as part of the measures put in place to address the COVID-19 impact. Should the complainant agree to a virtual mobility within the period of eligibility of the project, both the beneficiary and the National Agency should be in position to facilitate this decision.

Commission's response to the COVID-19 pandemic

In the context of the measures adopted by the Commission to respond to the COVID-19 pandemic, the Commission provided the National Agencies with the possibility of extending the ongoing Erasmus+ projects under 2017, 2018, 2019 and 2020 calls for up to maximum 12 months. The adoption of exceptional measures has followed an internal legal scrutiny and approval process by DG EAC's internal crisis committee (established at the level of the Director-General). According to this decision, National Agencies could authorise beneficiaries to extend the duration of their projects in order to allow the postponement of mobility activities up to 12 months per project, provided that the maximum project duration of Key Action 1 projects established in the Programme Guide, (i.e. 36 months), was not exceeded, with the exception of 2018 KA107 projects, for which the maximum allowed duration, following a 12-month extension, was 38 months[2].

[1] Under KA107, a university may apply for grants either directly to the National Agency as an individual HEI or via a consortium of which it is a member.

[2] In its guidance, the Commission clarified that the National Agencies could decide to authorise an extension of the project's duration by up to 12 months applying to projects with a duration up to 24 months. Where a) the new duration was exceeding the max. project duration, or b) the new latest possible end date was exceeding the date set in the Programme Guide, the National Agencies needed to sign an exception report.

In response to the National Agencies' query on the possibility to extend 2018 KA107 projects further, DG EAC issued another note on 2 February 2021, reiterating that no further extension of the 2018 project could be allowed.

This decision was taken after a careful analysis of the operational, legal and financial impact that further extensions may have had on the programme and the involved stakeholders. In particular, the following aspects were considered:

- The original duration of 2018 KA107 projects was 26 months. An additional extension of 12 months was allowed as part of the measures in response to the COVID-19 pandemic, thus reaching the maximum duration of 38 months. According to the Erasmus+ Programme Guide, the maximum duration of Erasmus+ projects is 36 months, therefore the 38-month duration already exceeds the maximum duration of Erasmus+ projects.
- The extension of the project duration to 38 months was only possible thanks to an extension of the Delegation Agreement (i.e. the agreement between the Commission and the National Agencies) by 6 months. The aim was to ensure that all entrusted tasks could be performed within the Delegation Agreement's validity period, including tasks after the end of the mobility activities such as final payments and final reports.
- As indicated in the guidance to the National Agencies, an extension of the project duration beyond 38 months, either to 40 months (maximum duration for other types of projects within Erasmus+ Key Action 2), or especially beyond the 40 months (requiring further extension of the Delegation Agreement) presented disadvantages that outweighed the benefits.
- Granting the possibility of a further extension for this type of projects would have a big impact on the implementation and management of the Programme. In fact, in line with Articles 188(a) and 201 of the EU Financial Regulation[3], to ensure equal treatment of the involved stakeholders, the same exception would have to be applied also for the other types of projects, programme sectors and call years, leading to the following detrimental consequences:

    - the amendment of the relevant reference, guidance and contractual documents with the National Agencies of the relevant call years by the Commission as well as interventions on IT tools used for the management of Erasmus+ projects, with the consequent re-deployment of Commission's resources, currently fully employed in the launch of the new programme;

[3] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193, 30.7.2018, p. 1.

- jeopardizing the achievement of objectives and targets of the 2021-2027 Erasmus+ programme in its launch phase: overlapping of old and new projects, with a consequent lower demand under the 2021 call; reduced capacity from the National Agencies in following up the activities linked to the launch of the new programme;
- a significant increase in the workload and administrative burden for National Agencies, who would need to process a higher number of amendments to the open grant agreements. This appeared highly problematic and risky in 2021, given the launch of the 2021 call (first application deadline: 11 May 2021) and the related higher workload for managing the application phase and related selection procedure;
- increase of financial risk: increasing risk of bankruptcy for small beneficiary organisations, due to the further postponement of final payments, with consequent loss of EU funds.

Further to the initial extension of Key Action 1 project duration by 12 months, other appropriate mitigating measures had been taken to enable beneficiaries and participants to continue benefitting from the programme, despite the persisting situation of the COVID-19 pandemic and the serious restrictions to physical mobility, which is at the heart of the programme.

In May 2020, through a note to the National Agencies, the Commission allowed to carry out **blended and virtual mobility in case of activities planned in 2020** (for projects selected under the 2020 call or in previous Call years). In particular, with regard to short-term **staff mobility** (teachers, professors, trainers, youth workers, etc.)[4] for all types of ongoing projects, it was confirmed that **a full period of virtual mobility could be considered eligible, if the conditions created by COVID-19 pandemic persist**.

This measure was introduced in view of the persisting and long-lasting difficulties related to the COVID-19 crisis in order to allow the programme to continue without making use of additional exceptional measures that, on the short and long term, could have been detrimental to the programme, as outlined above.

In an e-mail sent to National Agencies' directors on 30 November 2020, the Commission confirmed the applicability of these measures beyond 2020 as long as the situation created by COVID-19 pandemic would persist, thus covering also activities to be carried out in 2021.

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[4] Or in situations whereby participants are not able to have a period of physical mobility abroad due to the impact of COVID-19 (for example, in the case of students that will soon graduate and cannot start their mobility abroad at a later stage)

II. THE SUGGESTION OF THE EUROPEAN OMBUDSMAN TO THE COMMISSION

III. THE COMMISSION'S REPLY TO THE EUROPEAN OMBUDSMAN'S SUGGESTION

IV. CONCLUSIONS (TO BE ASSESSED BY THE UNIT WHETHER THIS IS NECESSARY)

List of enclosures

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR EDUCATION, YOUTH, SPORT AND CULTURE

Innovation, Digital Education and International Cooperation
International Cooperation

Brussels
EAC.C.3/BE/CA/AI

NOTE FOR THE ATTENTION OF ERASMUS+ INTERNATIONAL CONTACT POINTS

Subject: Further measures for management of International Credit Mobility projects during the outbreak of Coronavirus

Guidelines for implementation of 10 % exceptional costs for services and equipment for projects organising virtual activities due to COVID-19 (Addendum IV)

EAC has developed a set of guidelines to support National Agencies and beneficiaries doing the transfers in Mobility Tool+ for services and equipment related to virtual/blended mobilities. Please find attached the guidelines. These guidelines will be included in the next release of the ICM Handbook.

COVID-19 related costs: Transfers from individual and travel support

We have received questions regarding costs related to COVID-19 and whether such costs can be covered by individual/travel support if there is a shortage of organisational support left in the project. We can confirm that National Agencies can exceptionally allow for such transfer, provided that the cost is eligible and duly justified, and the rest of the rules in the Addendum IV are respected. Such budget transfers will have to be made following the same logic and respecting the provisions for the services and equipment, using the same exceptional cost category. For further information, please see the attached Guidelines.

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111

Christos.AIVALIOTIS@ec.europa.eu

Extension of 2018-projects

National Agencies have raised the question of the possibility to extend 2018-projects in KA107 beyond the 38 months that the Commission exceptionally allowed as part of our COVID-19 measures in 2020. Coming back to this topic as promised after having consulted the coordination and legal unit, we would like to inform you that *we cannot allow a further extension of the 2018-projects beyond the 38 months duration*. The reason is that the duration beyond 40 months would imply a further extension of the 2018 Delegation Agreement. DG EAC already agreed to a 6 month-extension in order to allow the NAs to close projects up to 40 months. An extension from 38 months to 40 months is from an administrative and IT point of view very heavy without bringing substantial benefits for the beneficiaries. We appreciate that you inform your beneficiaries accordingly and as soon as possible.

If you have any questions, please contact EAC-NA-ICM@ec.europa.eu.

Yours faithfully,

Filip VAN DEPOELE
Head of Unit

Annex: Guidelines: 10% budget transfer for Exceptional Costs for Services & Equipment in KA107 where virtual activities need to be organised due to COVID-19