European Ombudsman

Mr Christian Linder
Secretariat-General
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Ethics, Good Administration &
Relations with the European Ombudsman
European Commission

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Strasbourg, 11/07/2024

OI/4/2024/MIK

Subject: How the European Commission dealt with the use and publication of a study produced under an EU-funded contract

Dear Mr Linder,

We have received a complaint against the European Commission from DEMOS, an organisation promoting research and civic engagement. The European Ombudsman has asked me to deal with this case on her behalf.

Although the complainant is registered in Paraguay, we have decided to deal with the matter on our own initiative. It would be helpful to obtain more information from the Commission about the reasons for its decision and to explore the possibility of finding a pragmatic solution to the problem signalled by the complainant.

For this purpose, it would be useful to meet with the relevant representatives of the Commission to get answers to specific questions as set out in the Annex. I would be grateful if your staff could contact Mr Michał Krajewski (+32 228 444 64, michal.krajewski@ombudsman.europa.eu), who is responsible for this inquiry, and arrange for the meeting to take place before **16 September 2024**.

Yours sincerely,

Rosita Hickey
Director of Inquiries

Enclosures:

- Questions for the meeting
- The complaint in Case 942/2023/MIK.

Annex

The complainant produced a study concerning public opinion in Guinea-Bissau under a contract with the Commission (FED/2019/406-596). The Commission, as the copyright-holder, requires that the published study be distributed free of charge. In the complainant's view, this requirement makes it impossible in practice to have the study published with a reputable academic publisher. Any publisher would seek to make a profit on publishing this study or at least recover the publishing costs, the complainant says.[1] Some publishers agree to make academic work available online free of charge, but in such cases they usually require an 'open access fee' to be paid. As the Commission financed the study through a 'service contract', it seems not to have dedicated any funds for the complainant to be able to pay this fee.

Questions for the meeting

(1) Why did the Commission request the complainant to produce the study through a 'service contract' rather than a research grant contract?

(2) Did the Commission intend to publish the study with an academic publisher or otherwise? Why did it subsequently ask the complainant to halt the printing of the study?

(3) Why does the Commission require the complainant not to allow a potential academic publisher to sell copies of the published study, thereby ensuring it could not make any profit on it? Is this a regular requirement for studies financed with EU funds?

(4) Is this requirement applicable or justified in the specific case of the complainant, given the nature of the underlying contract - a service contract that did not provide for reimbursement of the costs of publishing in 'open access' rather than a research grant contract that might provide for such reimbursement?

(5) Would it be feasible for the Commission to reimburse the costs of publishing the study in question in open access or, alternatively, withdraw the requirement to distribute the published study free of charge?

(6) What would be the specific administrative obstacles, which the Commission has mentioned to the complainant, in the process of transferring the copyright of the study to the complainant?

[1] The complainant has organised a public campaign calling the Commission to "*lift all restrictions*" imposed on the publication of the study. See https://vozesdopovo.org/en/