European Ombudsman

Mr Christian Linder
Secretariat-General
Head of Unit - C2
Ethics, Good Administration &
Relations with the European Ombudsman
European Commission

SG-MEDIATEUR@ec.europa.eu

Strasbourg, 13/01/2025

Complaint OI/4/2024/MIK

Subject: Request for reply and inspection concerning how the European Commission dealt with the use and publication of a study produced under an EU-funded contract

Dear Mr Linder,

We refer to our letter of 11 July 2024 in which we notified you of having received a complaint concerning the above issue.

Following the meeting with the Commission representatives to discuss this complaint and after obtaining the complainant's comments on the meeting report, which we attach to this letter, we have decided that it would be useful to receive some additional clarifications from the Commission:

1) The addendum to the contract, dated August 2020, which the Commission and the complainant signed, provides that the book manuscript resulting from the study should be submitted to a reputable academic publisher. Are the specifics of the envisaged publication - such as which party chooses the publisher, which party submits the manuscript, and what are the other detailed arrangements for the publication - set out in any written document or exchanges by the parties? If this is not the case, why not?

2) How does the Commission reconcile the fact that the book manuscript should be submitted for publication with a reputable academic publisher, which would normally be a commercial entity, with its position that the book cannot be commercialised?

3) When and how did the Commission make the complainant aware that the book, when published by a reputable academic publisher, must be distributed free of charge?

4) What is the legal basis for the Commission's position that the commercial publication of the study in question is prevented by EU financial rules? Please consider also a scenario in which the complainant would waive any royalties, but a reputable commercial academic publisher could draw profit from selling the book.

We would be grateful to receive the Commission's reply by **the end of February 2025**. Please note that we are likely to send your reply and related enclosures to the complainant for comments.

We have also decided that it is necessary to inspect the following documents:

1) All the contracts and addendums to the contracts signed by the EU Delegation to Guinea-Bissau and the complainant, as well as any proposed addendums that the complainant did not accept.

2) All the exchanges between the EU Delegation in Guinea-Bissau, as well as the Commission, and the complainant concerning the negotiation and conclusion of the contracts and the addendums, as well as the exchanges leading to the rejection of any further addendums by the complainant.

We would be grateful if you could send us the documents for inspection by **27 January 2025**.

Information or documents that your institution considers to be confidential will not be disclosed to the complainant or any other person without the prior agreement of the Commission.[1]

Yours sincerely,



Tina Nilsson
Head of the Case-handling Unit

Enclosure:

- Comments of the complainant on the meeting report

[1] If you wish to submit documents or information that you consider to be confidential, and which should not be disclosed to the complainant, please mark them 'Confidential'. Encrypted emails can be sent to our dedicated mailbox eo-secem@ombudsman.europa.eu. Please contact eo-secem@ombudsman.europa.eu beforehand. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.

European Ombudsman

Mr Miguel Carter
DEMOS

miguelcarter.4@gmail.com

Strasbourg, 13/01/2025

Complaint OI/4/2024/MIK

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

Dear Mr Carter,

Thank you for your comments on our report from the meeting between the Ombudsman inquiry team and the Commission representatives held on 5 September 2024.

We have now decided that it would be useful to receive additional written clarifications from the Commission and inspect additional documents concerning your case.

We have asked the Commission to send to us its written reply and the documents for inspection by the end of February 2025. We will keep you updated about the progress of the inquiry.

We take this opportunity to clarify that, although we have decided to continue this inquiry, the role of the Ombudsman is to determine whether an instance of maladministration has occurred. The Ombudsman can help EU institutions improve their administrative practice, but providing individual redress in the specific form requested by the complainant is not always possible. Accordingly, the outcome of the inquiry may not necessarily be that the copyright of your study will be transferred to you, even if the Ombudsman were to find maladministration.

Yours sincerely,



Tina Nilsson
Head of the Case-handling Unit

Enclosure: Request for reply and inspection to the Commission