

Report on Case No CEDUC-24-4893

The complaint

1. The complaint, made by a teaching member of staff of the Malta College of Arts, Science and Technology (MCAST), was lodged with the Ombudsman's Office on 20th June 2024. The complainant alleged that:

“MCAST has a secret bonus whereby a select group of lecturers are given an additional €8,160 every year. The system works by having handpicked members of staff approached to complete a short course (lasting a few days/weeks) in order to be given this bonus. Other members of staff have no access to this bonus as the system has been kept secret for the past 18 years.”

The complainant alleged both discrimination in his regard and lack of transparency by the College in connection with this allowance.

2. Notice in terms of Article 18(1) of the Ombudsman Act was served upon the Principal and CEO of MCAST on the 28th June 2024.

Investigation and findings

3. From the evidence heard and other documentation collected – including information provided by the respondent entity – it results that when the project for Smart City was in its inception in the years 2005/2006, it was envisaged that Smart City would be a hub for the information and communication technology

industry, attracting huge foreign investment in that sector with the consequent need for experts in information and communication technology. In a Cabinet Memorandum dated **September 2006** the position (and possibly fears) of the Institute of Information and Communication Technology of MCAST (hereinafter “ICT”) was expressed in the following words:

“The Institute is finding it tremendously difficult to fill in the vacant posts with technically competent candidates from the industry. In the context of the rising ICT market, we fear MCAST will continue losing ICT lecturers to the industry as long as the package offered to ICT lecturers will not compare to the higher salaries they should potentially earn in the industry, and as long as incentives offered to lecturers will remain lacking. Furthermore, most ICT graduates prefer to work in the industry, since it seems more attractive. Hence, the high turnover amongst ICT lecturers within the Institute, and the difficulty to find replacements, imply that the Institute risks not having the necessary human resources to deliver particular subjects and courses. There is always the risk of starting the course with qualified lecturers who might leave the Institute in the middle of a course even though contractual penalties have to be paid. Moreover, if the Institute lowers its demands on the quality level of the qualifications and experience requested from lecturers, it will in turn have repercussions on the quality of students supplied by the Institute.”

4. From the limited documentation supplied by MCAST – and the undersigned does not for one moment doubt that the respondent College genuinely could not find other relevant documents – it transpires that Cabinet in or around 2006 approved an allowance, exclusively for ICT lecturers, provided

they possessed specific qualifications (outlined in the Cabinet Memorandum), which qualifications could be obtained either before or after joining the Institute.

5. However, this top-up allowance was eventually “buried” in the complex and, to the uninitiated, arcane internal administrative structure of MCAST. To begin with, this allowance was, on MCAST’s own admission never incorporated into any Collective Agreement, ostensibly on the ground that “... *when the agreement was made between MCAST and the Ministry, at that time, for Infrastructure, Transport and Communications, this allowance was advertised in lecturing vacancies to attract ICT lecturers and to align salaries with industry standards.*” However, as the Industrial Tribunal sharply observed in its Decision Number 2946 (Case No: 3880/20/AM) of the 6th October 2023:

“...mill-provi jirrizulta li l-proġett ta’ Smart City kif kien maħsub ma irriżultax, ma jistax jingħad għalhekk u lanqas ġie pruvat, li tali inċentiv sabiex iħajjru Lecturers fl-ICT department [recte: Institute] għad hemm bżonnu. Tali inċentiv, li daħal fis-seħħ fis-sena 2006, ċioe’ aktar minn 17-il sena ilu kien maħsub sabiex fis-sena 2006 iħallsu [recte: iħajjru] 160 student aktar mis-snin ta’ qabel jagħzlu sugġett tal-ICT. Minn fol. 79 jirriżulta li l-projections li kienu saru fil-Cabinet Memo kienu sal-aħħar tas-sena 2012, u ma hemm ebda prova li tali inċentiv kien ġie estiż mill-Gvern. Huwa l-Kulleġġ li ħalla kollox għaddej qisu xejn m’hu xejn u baqa’ jagħti din l-allowance lil dawn il-Letturi fl-ICT department [recte: Institute] mingħajr ma ikkonsulta mal-Gvern sabiex jara jekk tali allowance għandiex tibqa’ tingħata.”

For the avoidance of doubt, the person who instituted that case before the Industrial Tribunal is not the current complainant.

6. Throughout the investigation, MCAST was hard pressed to justify the fact that virtually no one outside the ICT Institute was aware of the availability of this top-up allowance. This in itself raises serious issues of transparency and accountability as other lecturers (like the complainant) also teaching subjects within the ‘ambit’ of information and communication technology within other Institutes, could never make informed choices. The College insisted repeatedly that “... *this allowance, and its eligibility criteria have always been well known within the ICT Institute*” (emphasis by the undersigned), clearly implying a *contrario sensu* that the allowance and the criteria were not known to those outside the Institute. More significantly, in its communication of the 20th February 2025, the respondent College admitted that:

“All ICT lecturers are aware of this allowance since an email with the conditions of the allowance had been sent directly to the ICT lecturers. Furthermore, when new ICT lecturers are recruited, they are informed about the allowance and the associated eligibility criteria, although the allowance is not mentioned in the vacancy per se.” (emphasis by the undersigned).

7. It beggars belief that the secrecy surrounding this top-up allowance has been going on for so many years. It is difficult to determine whether this secrecy was and is deliberate, in which case it amounts to blatant subterfuge, or the result of crass negligence. Either way, it raises serious issues of maladministration both under paragraph (b) of subarticle (1) of Article 22 of the Ombudsman Act, and under paragraph (d) of the same provision. It prevented

lecturers, like the complainant, from effectively lobbying (whether through his union or otherwise) for equal pay for substantially the same work performed under the aegis of Institutes other than the Institute of Information and Communication Technology, and from making informed choices, creating an improperly discriminatory playing field. Such secrecy is also wrong in principle (Article 22(1)(d)), since it flies in the face of transparency, especially where public funds are involved.

Conclusions

8. For all the above reasons, the complaint is sustained as the allegation made by the complainant has been substantially proved.

9. The undersigned, therefore, in line with subarticle (3) of Article 22 of the Ombudsman Act, and in particular paragraph (g) thereof, strongly recommends, in line with what befits a serious academic institution of higher learning, that this top-up allowance and the conditions of eligibility therefor be immediately made public on its website and that, moreover, the College should publish the number (not the names) of lecturers who, over the years, have benefitted from this allowance and the total disbursement in respect of this allowance for all those years.

Vincent A De Gaetano
Commissioner for Education

28 February 2025