



Report on Case No CEDUC-25-6049

The complaint

1. The complainant in this case is the mother of seven-year-old boy who is statemented and was assigned an LSE on a one-to-one basis. In her complaint to this Office, she went to great lengths to emphasise how happy she was with the service provided by her son's school – the Sliema Primary – and by all the school staff, and in particular the LSE assigned to her son.

2. It so happened, however, that early in May of this year the LSE assigned to her son was on long sick leave and, because of directives issued by the Union of Professional Educators (UPE), the education authorities found it impossible to find a replacement. The boy had to stay at home with the consequent upset to his and others' routine, not to mention failing to receive the education that he was entitled to as of right.

The investigation

3. This is not the first complaint that the Office of the Ombudsman has received in connection with the assignment, or lack thereof, of LSEs to children entitled to such service. The undersigned notes also that there is an own initiative investigation (commenced in 2024) still ongoing on the LSE waiting lists and the process of statementing. The instant complaint, however, touches upon an important administrative issue, to wit whether the Education Authorities are



doing everything possible to resolve the outstanding industrial issue with the union aforementioned. As was explained to the Permanent Secretary MEYR in this Office's communication of the 15th May 2025 (pursuant to the requirements of Article 18(1) of the Ombudsman Act), the omission by a government entity (as specified in Article 12(1) of the Ombudsman Act), to seriously engage, or at least to seriously attempt to engage, to solve an issue which is causing harm to third parties – in this case children who have a one-to-one LSE who cannot be replaced because of a union directive – falls squarely within the ambit of Article 22(1) of the Ombudsman Act. The same would be the case if such failure to engage were the result of a deliberate act, in which case sub-article (2) of Article 22 would also be engaged.

4. For the avoidance of doubt, the undersigned wishes to make it clear that the Office of the Ombudsman, and likewise the undersigned, have no remit to investigate the functioning of a trade union – there are other procedures and avenues for that. But, as one former Prime Minister of Malta was wont to say, it takes two to tango. Therefore, for the purposes of this investigation the UPE had, of necessity, to be roped in, but only as a witness.

5. Moreover, the undersigned also wants to make it clear from the outset that this Office takes a dim view of union directives – by any union – which, while ostensibly intended to promote, secure and improve the working conditions of its members, end up by causing disproportionate harm particularly to the most vulnerable in society (see in this context para. 4 of the Final Opinion in Case No CEDUC-24-4468 published on the 4th October 2024 and available online here: <https://ombudsman.org.mt/case-work/recommendation-not-implemented-final-opinion-on-discriminatory-practices-against-union-members-in-education/>).



6. From all the evidence – documents supplied both by the Office of the Permanent Secretary MEYR and by the UPE and witnesses heard – it results that beginning on the 26th January 2024, the UPE issued a number of directives to its members, directives which need not be spelled out in detail here but whose end result is that the administrations in many schools find it difficult (if not downright impossible) to replace LSEs who are sick by others through the expedient of temporary reallocation (especially by moving shared LSEs to cover one-to one LSE absences). The first directive appears to have been sparked, according to the UPE, by “... the Ministry’s refusal to grant study leave to shared LSEs”. Eventually other reasons were piled up by the UPE to justify other directives (or modifications thereof), including (always according to the UPE) the Ministry’s attitude towards it and towards its members, and ignoring “Ombudsman’s directives”. As far as can be ascertained, these ‘cumulative’ directives are still in force in one consolidated directive.

7. The official position of the Office of the Permanent Secretary MEYR is, in summary, that the UPE is being unreasonable, that its directives are in any case disproportionate, that it is not true that LSEs have not been granted study leave, and that the Education Authorities have, through the appropriate Director General, engaged with the UPE to try and solve the issue – whatever that issue in reality is, as the undersigned has found that exchanges between the appropriate Director General and the said union tend to compound ‘the issue’ in view of the fact that each side has entrenched ideas, with the emphasis being on entrenchment rather than on ideas.

8. There is no doubt that the appropriate Director General did engage valiantly in copious email correspondence with the UPE but, as usually happens when entrenchment prevails over ideas, most messages – particularly attempted



re-assurances about the grant of study-leave to LSEs – got lost in the ethernet. There is also no doubt, as the Office of the Permanent Secretary contends, that the UPE has taken a militant stand verging on the unreasonable; but this has also to be seen in the context of what can best be described, in anodyne language, as the reluctance of the Office of the Permanent Secretary to engage closely and effectively with the UPE, preferring to consider it as some ‘second class’ union (possibly so as not to antagonise some other union). The undersigned refers again to the Final Opinion of the 4th October 2024 in CEDUC-24-4468 (para. 5, *supra*), and to the Final Opinion of the 18th May 2021 in Case No UU 0020. In this last-mentioned Report (of 2021) - which had found the UPE’s claim of improper discrimination justified – the undersigned had noted the following in paragraph 8:

“The official side maintains that it cannot accede to the complainant union’s requests because this would risk upsetting the “other union” representing the said majority of the teachers in the public service. Indeed, in its communication of the 14th instant, already referred to above, the Ministry kept insisting that “...[s]ince the [complainant] Union is not the one officially recognised [it] cannot [be] allowed on school premises as this goes against normal industrial relations practices”. No mention is made in this almost telegraphic letter of the various other complaints or of the issues raised in the complainant’s memorandum of 1st March 2021 and transmitted to the Ministry by this Office on 3rd March 2021.”

9. More significantly and crucially, this Office, after repeated questions as to whether a face to face meeting with the UPE was held over the issue of the impugned directives, received (on the 20th August 2025), the following reply from the Office of the Permanent Secretary: “*Mr Sansone [Executive Head of UPE] was invited for a meeting via an email sent on 1st May 2024. This email was never answered by UPE and the issue was never raised again.*” That means that after the 1st of May 2024 the Education Authorities did not attempt to engage



at close quarters and around a table with the UPE. From other correspondence it appears that this email included a precondition that the directives should first be lifted.

Conclusion and recommendation

10. The Education Authorities' primary responsibility is to the students entrusted to their care and, *in subsidium*, to the parents of said students. Giving up is not an option for the Education Authorities when so much is at stake for a segment of students attending state schools. Failing to do everything possible, within the bounds of reason, to have the impugned directives lifted or abated by not insisting on direct meetings without preconditions with UPE officials is, in the circumstances of the instant case, an omission that is both wrong in principle (Art. 22(1)(d) of the Ombudsman Act) and a censurable omission in terms of Article 22(2).

11. For all the above reasons, the complaint, received at this Office on the 13th May 2025, is substantiated and is therefore sustained. The undersigned recommends that the Education Authorities again invite forthwith and without preconditions the UPE to sit around the table with a view to sorting out the issues that may still be a stumbling block to the lifting of the impugned directives. The Office of the Parliamentary Ombudsman places itself at the disposal of the Education Authorities and the UPE to facilitate such meeting/s.

Vincent A De Gaetano
Commissioner for Education

17 September 2025