

Letter to the President of the European Commission Mr Jean- Claude Juncker concerning effective complaint mechanisms for matters concerning European Structural and Investment Funds — follow-up to OI/8/2014/AN

Correspondence - 02/08/2019

Case SI/3/2018/JN - Opened on 25/09/2018 - Decision on 18/07/2019 - Institution concerned European Commission |

Mr Jean- Claude Juncker

President of the European Commission

Strasbourg, 25/09/2018

Strategic Initiative SI/3/2018/JN: effective complaint mechanisms for matters concerning European Structural and Investment Funds — follow-up to OI/8/2014/AN

Dear Mr President,

On 11 May 2015, I closed my inquiry (OI/8/2014/AN) into how the European Commission ensures that the fundamental rights, recognised in the European Charter of Fundamental Rights, are respected when Member States implement EU cohesion policy. The Commission's response to the guidance I issued in that case was generally positive. I am contacting you now in order to follow-up on one of these guidance points.

Guidance point (v) concerned complaint-handling arrangements at Member State level. [1]
Specifically, Article 74(3) of Regulation 1303/2013 [2] requires Member States to “*ensure that effective arrangements for the examination of complaints concerning the ESI Funds are in place*”

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The Commission responded in detail to this guidance point. The response included a commitment to undertake a study of the complaint-handling arrangements in place in the Member States. The Commission also said that it intended to systematically request Member States to report on the outcome of their complaint-handling, if it revealed a breach of Union law (including of the Charter), possible fraud or a systemic irregularity.

I note that, in the meantime, the Commission has published its Communication *EU law: Better results through better application* [3]. This states that “*a robust, efficient and effective enforcement system is needed to ensure that Member States fully apply, implement and enforce EU law and provide adequate redress for citizens*”. The Commission goes on to acknowledge the role of citizens’ complaints in reporting issues concerning the implementation of EU law on the ground, as well as the role of national ombudsmen in addressing those issues. The Commission undertakes to “*strengthen its cooperation with the European Network of Ombudsmen, which is coordinated by the European Ombudsman and brings together national and regional Ombudsmen to promote good administration in the application of EU law at national level.*” [4]

I have decided to follow-up on the implementation of Article 74(3) of Regulation 1303/2013 by putting the questions set out below to the Commission. I have also invited my colleagues in the European Network of Ombudsmen (some of whom were involved in my earlier inquiry) to look into how individual Member States implement Article 74(3).

1) What steps has the Commission taken to help Member States put in place effective arrangements to examine complaints concerning the European Structural and Investment Funds? How has the Commission been monitoring Member States’ compliance with this obligation? Can you please provide a copy of the Commission’s study (referred to in your response of 23 November 2015 to my earlier inquiry) on complaint arrangements in the Member States?

2) What has the Commission learned to date about how Member States have fulfilled their obligation to have in place effective arrangements to examine complaints concerning the European Structural and Investment Funds? Please provide copies of reports received by the Commission on the outcome of Member States’ examination of complaints.

3) Has the Commission detected any issues of concern regarding the Member States’ arrangements for examining complaints in this area? Has the Commission taken any remedial action? Has the Commission so far used its power to suspend payments or to recover money?

I would be grateful to receive the Commission’s reply by 31 December 2018. I may publish the Commission’s reply on my website and also give interested third parties the opportunity to make comments.

I hope that this initiative, following up on my inquiry in OI/8/2014/AN, will contribute to better implementation of Article 74(3), which is essential to help ensure that the European Structural



and Investment Funds are properly managed and that citizens' rights are fully respected. Thank you for your continued good cooperation on this matter.

Yours sincerely,

Emily O'Reilly

European Ombudsman

[1] “ (v) *Apply strictly and without exception the obligation to verify that the management and control systems, including complaint-handling arrangements, are adequate and efficient, that they remain so for as long as programmes are implemented and that weaknesses are duly corrected. This includes systematically requiring that Member States inform the Commission of the results of all complaints concerning ESI Funds, whether they were initially submitted to the Commission or not.* ”

[2] Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347, 20.12.2013, p. 320.

[3] Communication from the Commission, EU law: Better results through better application, C/2016/8600, OJ C 18, 19.1.2017, p. 10.

[4] Communication from the Commission, EU law: Better results through better application, section 2.