



## Decision in case 327/2019/MH on how the European Commission dealt with an EU law complaint about the non-renewal of a business licence in Gibraltar

Decision

**Case 327/2019/MH - Opened on 11/03/2019 - Decision on 11/03/2019 - Institution concerned** European Commission ( No maladministration found ) |

Complaint to the European Commission

1. Over the past two years, the complainant has raised on a number of occasions with the European Commission his concerns about the non-renewal of his business licence by the relevant authorities in the British Overseas Territory of Gibraltar.
2. In January 2017, he complained to the Commission that the non-renewal of his licence amounted to a breach of EU law, was a barrier to entry, discriminatory and contrary to the EU rules on free movement of goods, State aid, and human rights. On 16 March 2017, the Commission informed the complainant that the rules on the free movement of goods do not apply to Gibraltar. For this reason, the Commission did not register the information of January 2017 as a formal complaint. It nonetheless, gave the complainant four weeks to submit information showing a breach of other EU law provisions.
3. In August 2018, the complainant submitted a new complaint concerning the non-renewal of his business licence, along the lines of his earlier complaint.
4. In November 2018, the Commission provided the complainant with a copy of its letter of 16 March 2017, which he stated he had not received. In reply to that letter, the complainant raised new concerns that the non-renewal of his licence amounted to a breach of the EU rules on the freedom to provide services.
5. In December 2018, the Commission informed the complainant that he had not submitted sufficient information for it to start a State aid investigation.  
The Commission's response to the complainant
6. In January 2019, the Commission informed the complainant of its decision to close his August 2018 complaint. Having examined the issues raised from the perspective of " *an EU internal market for services* ", it found no evidence that the licensing rules and the way they were enforced in Gibraltar were discriminatory, arbitrary, unnecessary or disproportionate. Nor was there any evidence of a human rights infringement.
7. The complainant was not satisfied with the Commission's response. He turned to the European Ombudsman, arguing that the Commission was wrong to reject his complaint and



had behaved dishonestly.

The European Ombudsman's finding

**8.** The Commission is responsible for ensuring that EU Member States properly apply EU law. In line with this task, the Commission examined and addressed the many concerns raised by the complainant in his various complaints about the non-renewal of his business licence in Gibraltar. It also gave him opportunities to provide further information and to substantiate his concerns. The Ombudsman has not found anything in the information provided by the complainant to suggest that the Commission made a manifest error of assessment or behaved dishonestly in rejecting his complaint.

**9.** Based on the information provided by the complainant, the Ombudsman closes this case [1] with a finding of no maladministration.

Lambros Papadias

Head of Inquiries - Unit 3

Strasbourg, 11/03/2019

[1] This complaint has been dealt with under delegated case handling, in accordance with Article 11 of the Decision of the European Ombudsman adopting Implementing Provisions