

Decision in case 1994/2018/JF on how the Commission handled an infringement complaint

Decision

Case 1994/2018/JF - **Opened on** 14/03/2019 - **Decision on** 14/03/2019 - **Institution concerned** European Commission (No maladministration found) |

The complaint to the Commission

1. The complainant, representing a family-owned satellite communications services provider, repeatedly complained to the European Commission, between June 2013 and August 2018, about infringements of national, international and EU laws by Croatia. The Commission registered the complaint in its data base of complaints about infringements of EU law (CHAP) in 2016.

2. In his complaint to the Commission and further letters, the complainant took the view that, after that the Croatian Ministry of the Sea, Transport and Infrastructure published its Explanation of the provisions of the Croatian Electronic Communications Act (respectively, the 'Explanation' and the 'Act') in 2010, Croatia "*lost control*" of all its satellite communications services on ships flying the Croatian flag in international waters. As a consequence of that, and also of agreements between major telecommunications companies and the Croatian authorities, the complainant can no longer provide its services to those ships, which entitles him to a compensation. Additionally, the complainant raised the possibility of also the Commission having entered into agreements with the Croatian authorities that were detrimental to him and of its staff being affected by conflicts of interest.

The Commission's responses to the complainant

3. The Commission replied to the complainant, on 10 January and 6 December 2018, that it could not find any evidence of infringement of EU law. In May 2017, the Commission visited Croatia and found no systemic irregularities in the implementation of relevant legislation. The Act correctly transposed EU law and the Explanation, which is not a binding legal act, merely clarified that Croatian users of satellite communications services in high seas no longer need to make use of providers that comply with the Act. They are therefore free to choose any other providers, namely those outside Croatia, which is compatible with the freedoms of



establishment and to provide services in the EU. The above does not prevent the complainant from providing his services and he is free to do so in all Member States, as long as he complies with the applicable legislation. As regards the alleged anticompetitive agreements, the Commission considered that the complainant had not provided any supporting evidence. He was nevertheless free to address his claim for compensation to the national authorities that have the powers to decide on such matters. The Commission denied having entered into any agreements with Croatia or that its staff could be somehow affected by any conflicts of interest when dealing with the complainant's infringement complaint. The complainant could complain to the Commission's Secretariat-General if he considered that there had been a breach of the Commission's Code of Good Administrative Behaviour by any of its officials or to the Ombudsman if he found that the Commission had acted with maladministration.

4. The complainant was not satisfied with the Commission's handling of his complaint and turned to the Ombudsman, for the first time, on 6 November 2018. Between November 2018 and January 2019, he sent to the Ombudsman additional information.

The European Ombudsman's findings

5. The Commission has registered the complaint and explained to the complainant in sufficient detail why it considered that no infringement of EU law occurred in Croatia. It has also clearly explained why it could not deal with alleged violations of legislation other than that of the EU. It also noted that the complainant had been able to seek redress with competent national competition authorities and administrative courts, which the complainant did not contest. It has further provided reasonable explanations as to why it could not pursue the complainant's claims in respect of the alleged anticompetitive behaviour and rebutted in a convincing manner his allegations of a conflict of interest affecting Commission staff. Finally, it has dealt with four requests for public access to documents from the complainant, having also replied to his subsequent confirmatory applications.

6. Based on the information provided by the complainant, the Ombudsman finds no maladministration in this case. [1]

7. The above does not, of course, prevent the complainant from approaching the Commission again in case he has new information that may be relevant to support his infringement complaint.

Marta Hirsch-Ziembińska

Head of Inquiries and ICT - Unit 1

Strasbourg, 14/03/2019



[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](#) [Link]