

Decision of the European Ombudsman concerning complaint 1043/2019/MMO against the European Commission

Decision

Case 1043/2019/MMO - **Opened on** 04/07/2019 - **Decision on** 04/07/2019 - **Institution concerned** European Commission (No maladministration found) |

Dear Mr X,

On 7 June 2019, you filed a complaint [1] with the European Ombudsman against the European Commission concerning its alleged failure to deal adequately with a series of infringement complaints you submitted against Greece. The Ombudsman has asked me to deal with your complaint and reply to you on her behalf.

Your infringement complaints concerned an alleged breach of Article 16(2) of Regulation 1083/2006 laying down general provisions on the European Regional Development Fund [2] and of Article 26 of the EU Charter of Fundamental Rights on the integration of persons with disabilities. You complain, in particular, about the width of pavements in Greece when it comes to projects that are (co-)financed by the EU. You state that the pavements in Greece are neither fit nor safe for persons with disabilities and other vulnerable categories of the population such as elderly persons or children, in that they are too narrow, damaged and often obstructed. This creates an obstacle to mobility leading to social exclusion.

In your complaint to the Ombudsman, you argue that the Commission has not addressed a series of issues you have raised in the context of your infringement complaints.

I would first like to express my appreciation for the work you are doing on this important issue and for having brought it to the attention of the European Commission and of our Office.

We have in the past looked into how the Commission ensures that Member States respect fundamental rights when they implement EU funded projects and have produced guidelines for improvement to the Commission as it supervises the Member States in this area. [3]

After a careful analysis of all the information submitted to us, however, I am sorry to have to inform you that I do not find that the Commission's handling of your complaints and its responses to you amount to maladministration.



The Commission enjoys a wide margin of discretion in deciding whether or not to start infringement proceedings against a Member State [4] , and how to conduct its investigations.

The European Ombudsman can, as a matter of good administration, seek to ensure that the Commission explains properly how and why it has exercised its discretion. The Commission should make available complete and clear information on the position it takes regarding an infringement complaint. Our inquiries seek to ensure that this is the case.

As regards whether the explanation provided to you meets this standard, I note that the Commission has sufficiently explained to you why it will not pursue an infringement case against Greece. The Commission informed you of the follow-up action it took on the basis of your complaints by requesting more information from the Greek authorities concerning the accessibility of certain projects financed by EU structural funds. Having obtained a commitment by the national authorities to implement corrective measures in certain cases, it closed your infringement complaints referring you to means of redress at national level if the measures the Greek authorities take do not improve the situation.

In addition, as regards the infringement complaint you submitted on 11 April 2017 [CHAP(2017)1353], the Commission informed you that the projects in question were withdrawn from the EU funding scheme, which means that they are no longer financed by the EU. In those circumstances, the Commission lacks the legal basis to take any action against Greece.

On this basis, I find that there is no evidence of maladministration by the Commission. For that reason I have closed the case.

I noted above that the Commission referred you to means of redress at national level. In that context, you might consider it useful to contact the Greek Ombudsman [5] , who might be well placed to take action in order to address any outstanding problems in this area.

I understand that this might not be your desired outcome but I hope you find the above explanations useful.

Yours sincerely,

Marta Hirsch-Ziembińska

Head of Inquiries and ICT - Unit 1

Strasbourg, 04/07/2019



[1] Full information on the procedure and rights pertaining to complaints can be found at <https://www.ombudsman.europa.eu/en/document/70707> [Link]

[2] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1083&from=EN> [Link]. See Article 16, para. 2.

[3] See Decision of the European Ombudsman closing her ow-initiative inquiry OI/8/2014/AN concerning the European Commission
[<https://www.ombudsman.europa.eu/en/decision/en/59836>]

[4] Judgment of the Court of Justice of 6 December 1989, *Commission v Greece* , C-329/88
[<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A61988CJ0329>]

[5] Συνήγορος του Πολίτη, Χαλκοκονδύλη 17, 10432 Αθήνα, τηλ. 213 1306 600, φαξ. 213 1306 800, www.synigoros.gr