

Decision of the European Ombudsman on complaint 1813/2018/MH concerning how the European Commission dealt with a State aid complaint about commercial rates for electricity producers in Ireland

Decision

Case 1813/2018/MH - **Opened on** 05/07/2019 - **Decision on** 29/08/2019 - **Institution concerned** European Commission (Settled by the institution) |

Dear Ms X,

On 23 October 2018, you submitted a complaint to the European Ombudsman against the European Commission on behalf of the association X. The main concern set out in the complaint was that the Commission should take action on association X's State aid complaint of 4 February 2016.

In its complaint to the Commission, the association X had raised concerns that, by taxing fossil fuel producers more favourably than other electricity producers, Ireland had contravened the EU's State aid rules [1] . The Commission sent two letters to the complainant in 2016 and 2017, setting out why the measure in question did not constitute State aid. The complainant submitted further comments contesting the Commission's preliminary assessment.

On 5 July 2019, the Ombudsman asked that an inspection meeting take place with the Commission to understand why it had not yet taken a final decision [2] on the State aid complaint. In reply, the Commission informed the Ombudsman that on 9 July 2019 it took a final decision concluding that the measure complained of could “ *not be qualified as State aid within the meaning of Article 107(1) TFEU* ” [3] .

In light of the above, the Ombudsman has decided to close this case with the following conclusion:

As the European Commission has now taken a decision on the complainant's State aid complaint, it has settled the case [4] .

I appreciate that the association X included the following issues in its complaint to the Ombudsman, namely that the Commission had (1) sent two preliminary assessment letters, (2) taken too long to conduct its assessment, and (3) failed to react to new information.



Now that the complainant's main concern has been addressed by the Commission taking a decision, our view is that there are no grounds for the Ombudsman to inquire into these matters.

Thank you for having contacted the Office of the European Ombudsman.

Yours sincerely,

Lambros Papadias

Head of Inquiries - Unit 3

Strasbourg, 29/08/2019

[1] Article 107(1) of the Treaty on the Functioning of the EU (TFEU):

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A12008E107> [Link]

[2] A decision either to reject the complaint or to open an in-depth investigation.

[3] Available at:

https://ec.europa.eu/competition/state_aid/cases1/201929/279333_2083564_81_2.pdf [Link]

[4] Full information on the procedure and rights pertaining to complaints can be found at

<https://www.ombudsman.europa.eu/en/document/70707> [Link].