

How the European Commission dealt with a complaint about how the Commission Vice-President for Democracy and Demography responded publicly to critical media coverage

Correspondence - 29/06/2020

Case 874/2020/MIG - Opened on 29/06/2020 - Decision on 26/03/2021 - Institution concerned European Commission (No further inquiries justified) |

Ms Ursula von der Leyen

President

European Commission

Complaint 874/2020/EWM

Subject: How the European Commission dealt with a complaint about how the Commission Vice-President for Democracy and Demography responded publicly to critical media coverage

Dear President,

I have received a complaint from X against the European Commission regarding the Commission's reply to a complaint about how Vice-President Dubravka Šuica responded publicly to critical media coverage, notably comments she made during a local TV call-in show in Dubrovnik.

The complainant, a Croatian citizen, contacted the Commission and alleged that these comments breached the Code of Conduct for the Members of the European Commission. On 11 May 2020, the Commission replied that:

" the European Commission and Vice-President Šuica attach utmost importance to the freedom of expression and to the freedom and pluralism of the media, which are fundamental European values enshrined in the European Union's Charter of Fundamental Rights.



Since the programme was broadcast, Vice-President Šuica has already reiterated her unwavering support for those freedoms and clarified that it was not, and is not, her intention to impair the independence of the TV station in question, the independence of the journalist, Mr Pasko Tomaš, or the independence of his programme 'The Voice of the People' ('Glas Naroda'). I hope this allays your concerns."

The complainant takes issue with the Commission's response. She is concerned that, while it is welcome that the Vice-President stated her support for freedom of expression, the Commission should nonetheless have taken a position on her comments, which the complainant insists are at odds with support for freedom of expression.

I have decided to open an inquiry into this complaint.

My inquiry team has reviewed a transcript of the Vice-President's appearance in the call-in show and related reports in the Croatian media. Based on this transcript, Vice-President Šuica acknowledges that the caller "*has the right to his position*", but also appears to say that she believes that the media should not broadcast or publish statements criticising public figures. She also seems to imply that the radio station allows such critical statements to be broadcast in order to increase its popularity.

I have previously recommended that European Commissioners should be mindful of the need to exercise due caution in media interviews [1]. Given the paramount importance of freedom of expression and the freedom and pluralism of the media, any statements that could be *perceived* as an attempt to stifle critical media coverage should be avoided. The new Code of Conduct for Commissioners, which entered into force in 2018, gives expression to the legal requirement on Commissioners to exercise appropriate discretion in their public utterances. [2]

It would therefore be useful to receive a written reply from the Commission to this complaint and the matters set out above. It would also be useful to know how the Commission ensures in practice that Commissioners are made aware of their obligations under the Code of Conduct.

Please note that I am likely to send your reply and related enclosures to the complainant for comments [3].

I would be grateful to receive the Commission's reply by **27 July 2020**.

The case-handler responsible is Elke Winter-Mes,
elke.winter-mes@ombudsman.europa.eu.

Yours sincerely,



Emily O'Reilly

European Ombudsman

Enclosure: Complaint 874/2020/EWM

[1] See my Recommendation in complaint 1419/2016/JN:
<https://www.ombudsman.europa.eu/en/recommendation/en/89218> .

[2] In particular Articles 2(5), 5(1 and 4) and 9(3).

[3] If you wish to submit documents or information that you consider to be confidential, and which should not be disclosed to the complainant, please mark them 'Confidential'. Such documents can be sent through secure channels, such as Ares, CIRCABC or equivalent applications. The case handler can be contacted beforehand, if necessary.