

Decision of the European Ombudsman on complaint 1187/2020/DDJ against the European Commission

Decision

Case 1187/2020/DDJ - **Opened on** 07/08/2020 - **Decision on** 07/08/2020 - **Institution concerned** European Commission (No maladministration found) |

Dear Mr X,

On 14 July 2020, you submitted a complaint to the European Ombudsman against the European Commission concerning its failure to provide you with a substantial answer to your request for information.

You asked the Commission to confirm that the phosphate rights you received from the Dutch government were allocated in line with the Commission's state aid decision. [\[1\] \[Link\]](#) You asked this question because you wish to trade these phosphate rights when seizing your activities as a farmer.

The Commission replied to you by letter on three different occasions.

After a careful examination of the information provided by you, the Ombudsman finds no maladministration by the Commission. [\[2\] \[Link\]](#)

In its state aid decision, the Commission allowed the Dutch government to introduce a system of tradeable phosphate rights in the Netherlands for farmers that hold dairy cattle. It is the responsibility of the Netherlands to manage that system in line with the Commission's decision SA.46349.

You asked the Commission to determine in your case whether the phosphate rights you received were allocated rightfully. The Commission informed you on multiple accounts that it is not in a position to do so.

In the Ombudsman's view, the Commission's response is accurate. The term 'dairy cattle' to which the Commission's state aid decision refers when allowing for the distribution of phosphate rights, is defined under the Dutch Fertilisers Act (Meststoffenwet). It is for the Dutch government to determine whether your cattle stock belongs to this category. The Commission is not in a position to reassess that decision.



The Commission rightly referred you to the Dutch government to answer your question. It furthermore provided you with the contact details of two officials in the Ministry of Economic Affairs and offered to redirect your request to the Ministry of Agriculture. In the Ombudsman's view, this reply is reasonable.

I appreciate that this decision might be disappointing to you. I do hope that the above information and explanations are helpful.

Yours sincerely,

Marta Hirsch-Ziembińska Head of Inquiries and ICT - Unit 1

Strasbourg, 07/08/2020

[1] [Link] State Aid decision SA.46349 (2017/N), Introduction of a system of tradable phosphate rights for dairy cattle in the Netherlands, 19.12.2017, C(2017) 8483 final

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