

Decision in case 1623/2020/PL on how the European Commission dealt with an infringement complaint against Spain for allowing a bank to foreclose a property

Decision

Case 1623/2020/PL - Opened on 23/11/2020 - Decision on 23/11/2020 - Institution concerned European Commission (No maladministration found) |

Dear Mr X,

On 13 September 2020, you lodged a complaint with the European Ombudsman against the European Commission concerning its handling of your infringement complaint against Spain for the foreclosure of a property (CHAP(2018)01330). I take note as well of the arguments you raise in your email of 3 November 2020.

From the information you have provided in your complaint, I understand that you disagree with several Spanish court rulings regarding the foreclosure of a property. You consider that the judicial system in Spain does not work adequately. You sent an infringement complaint to the European Commission against these court rulings, arguing that they are contrary to EU law and should be annulled.

In your complaint to the Ombudsman, you disagree with the Commission's decision to close the infringement complaint. You also take the view the Commission took too long to deal with your complaint.

After carefully analysing the information you have provided, we are sorry to have to inform you that **the Ombudsman finds no maladministration in this case.** [1]

The Commission enjoys wide discretion in deciding whether and when to initiate infringement proceedings. [2] When it comes to infringement complaints, the Ombudsman may examine whether the Commission has properly informed the complainant of the position it eventually takes. In addition, the Ombudsman may examine whether the complainant has been given the opportunity to comment on the position of the Commission.

Regarding the Commission's position on your complaint, it has informed you that it does not consider your case to constitute evidence of systemic non-compliance by Spain of EU law. It



has the discretion to take this view. The Commission has no competence to intervene in the administration of justice in Member States. Only appeal courts and supreme courts may overturn rulings by lower courts.

We also note that the Commission gave you the possibility to comments on its position regarding your complaint in its letter of 22 April 2020.

While there clearly was a regrettable delay by the Commission in replying to your complaint of April 2018, we note that the Commission has apologised for this.

We understand that this is not your desired outcome of the complaint. However, we hope you find these explanations helpful.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 23/11/2020

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

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

[2] Judgment of the Court of 14 February 1989, *Starfruit v Commission*, case 247/87, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61987CJ0247>.