

Decision of the European Ombudsman in the above case on how the European Commission dealt with a complaint that Lithuania breaches EU law on consumer protection in the area of credit agreements relating to immovable property (CHAP(2020)03071)

Decision

Case 677/2021/ABZ - **Opened on** 18/06/2021 - **Decision on** 18/06/2021 - **Institution concerned** European Commission (No maladministration found) |

Dear Mr X,

On 7 April 2021, you complained to the European Ombudsman about how the European Commission dealt with your infringement complaint CHAP(2020)03071 against Lithuania.

In your complaint to the Commission, you argued that Lithuania failed to fully transpose the provisions of the Mortgage Credit Directive [1] ('the Directive'). In your view, the national transposition measures in Lithuania do not guarantee a high level of consumer protection in the area of credit agreements relating to immovable property. You complained, in particular, about the lack of reliable standards for valuation of property, the imposition of additional charges on consumers in the event of default and the role of bailiffs in foreclosure proceedings. You challenged the Commission's view that certain matters fall within the competence of the national authorities. You also contended that the national court did not apply the national transposition measures in the judicial proceedings in relation to the foreclosure of your property.

In your complaint to the Ombudsman, you argue that, in assessing the infringement complaint, the Commission made manifest errors. In your view, the Commission wrongly considered that you requested it to intervene in your individual case. You also argue that the Commission failed to address all your arguments. You consider that the Commission provided you with an excessively formal reply and that it failed to adequately reason its decision, thus breaching your fundamental right to good administration. Finally, you argue that the Commission failed its duty to act with care and to assist you on the matter complained about.

After a careful analysis of all the information you provided with your complaint, we find that **there was no maladministration** .

The Commission has wide discretion in dealing with infringement complaints. [2] Its policy on



infringements of EU law is set out in its communication EU law: Better results through better application [3] . When it comes to infringement complaints, the Ombudsman may examine whether the Commission has clearly explained its position and whether it has given the complainant the opportunity to provide comments before it closes a case. In that regard, the Commission is not obliged to engage with a complainant on every issue or argument raised in the infringement complaint. Rather, it suffices that the Commission explains clearly why it has taken a certain position. Regarding the substance of an infringement complaint, the Ombudsman may only intervene (by asking the Commission to look at the complaint again) in case there is an indication that the Commission was manifestly wrong in its presentation of the facts or of law.

We note that the Commission gave you the opportunity to comment on its position before it closed the case. We also consider that the Commission provided you with clear information as regards why it closed the infringement complaint. In particular, the Commission examined the provisions of the relevant national transposition measures and did not find that the Lithuanian authorities have transposed the Directive in an incorrect or incomplete manner. The Commission thus did not close the file by merely referring to the fact that it cannot intervene in your individual case, as you argue.

The Commission also said that it is currently conducting a conformity assessment of the national transposition measures in all Member States and may open an infringement procedure in future, if finding evidence of non-compliance with EU law.

We consider the Commission's assessment and its reply to your infringement complaint to be reasonable. We also find nothing to suggest that the Commission failed to comply with the principles of good administration in how it dealt with your infringement complaint.

In light of the above, the Ombudsman has closed the case. [4]

You may be disappointed with the outcome of the case, given the difficult circumstances that you are facing, we nevertheless hope that you will find the above explanations helpful.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 18/06/2021

[1] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, available here:



<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32014L0017> [Link].

[2] See judgment of the Court of 14 February 1989, *Starfruit v Commission*, 247/87
(<https://eurlex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61987CJ0247&from=EN>).

[3]
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0119\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0119(01)&from=EN)

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

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