

Decision on how the European Commission dealt with a complaint alleging that Italy breaches EU law in how it conducts municipal elections - CHAP(2020)02508 (case 1286/2021/LM)

Decision

Case 1286/2021/LM - Opened on 24/09/2021 - Decision on 24/09/2021 - Institution concerned European Commission (No maladministration found) |

Dear Mr X,

On 18 July 2021, you submitted a complaint to the European Ombudsman about how the European Commission dealt with your infringement complaint CHAP(2020)02508 against Italy.

In your complaint to the Commission, you argued that the electoral rules in Italy, which led to your exclusion from municipal elections, are discriminatory and violate the principle of democracy and electoral pluralism as established in the EU Treaties and the Charter of Fundamental Rights of the European Union (the Charter) [1] . You contended that the electoral committee wrongly excluded your political party from the elections based on the party's ideologies.

In your complaint to the Ombudsman, you argue that the Commission was wrong not to take any action against Italy. You contend that the Italian government is systematically prohibiting political parties that it considers uncomfortable or problematic from participating in elections.

After a careful analysis of all the information you provided with your complaint, I regret to inform you that the Ombudsman finds no maladministration by the European Commission [2] .

In reply to your complaint against Italy, the Commission said that it is for the Member States to lay down the specific conditions for conducting elections and it is for the national administrative and judicial authorities to ensure that elections are conducted in compliance with the applicable laws and relevant standards. The Commission advised you to turn to the European Court of Human Rights.

The Commission's position is in line with the EU Treaties, which do not confer any competence to the EU on national electoral matters [3] . The EU shall respect the Member States' political and constitutional structure, including regional and local self-government [4] .



In addition, the provisions of the EU Charter of Fundamental Rights apply to Member States *only when they are implementing EU law* [5] . The Commission cannot intervene based on the Charter to question national legislation that fall outside the scope of EU law, which is the case here [6] . This is not changed by the fact that you consider the matter to be systemic.

On the basis of the above, the Commission's reply to your complaint is reasonable and correct.

I understand that this decision will disappoint you. I nevertheless hope that you find the above explanation useful.

Thank you for having contacted the European Ombudsman.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 24/09/2021

[1] Available at

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016P%2FTXT> [Link]

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

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

[3] Article 3 to 6 of the Treaty on the Functioning of the European Union (TFEU) do not list this competence among EU competences. The TFEU is available at

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E%2FTXT> [Link]

[4] In accordance with Article 4(2) of the Treaty on the European Union (TEU), available at

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016M%2FTXT> [Link]

[5] Article 51(1) of the Charter.

[6] Judgement of the Court of 26 February 2013, *Åklagaren v Hans Åkerberg Fransson* , C-617/10, paragraphs 17 and 19, available at

<https://curia.europa.eu/juris/liste.jsf?language=en&jur=C%2CT%2CF&num=C-617/10&parties=&dates=error&docno> [Link]