

Decision on how the European Commission dealt with a complaint against the Spanish region of Aragón for its rules on the use of coal in heating installations (case 407/2022/PL)

Decision

Case 407/2022/PL - Opened on 15/03/2022 - Decision on 15/03/2022 - Institution concerned European Commission (No maladministration found) |

Dear Mr X,

In February 2022, you made a complaint, to the European Ombudsman about how the European Commission dealt with your infringement complaint CHAP (2021)01240 against the Spanish region of Aragón for its rules on use of coal in heating installations.

In your complaint to the Commission, you argued that the legislation in Aragón is stricter than in the rest of Spain and you question whether this is in line with the principle of equal treatment in the Spanish constitution.

In your complaint to the Ombudsman, you contend that the Commission was wrong to close your complaint and that it failed to address the question you raised. You say that the Commission referred instead to the lack of breach of EU law, which you had not put forward.

After a careful analysis of all the information you have submitted, we have decided to close this inquiry with the conclusion that **there was no maladministration by the European Commission in this case.**

As the Commission explained to you, it does not have the power to assess whether a measure infringes the Spanish Constitution. The Commission has the power only to assess whether measures taken by a Member State or its regions are in breach of EU law.

In assessing potential breaches of EU law, the Commission enjoys wide discretion in deciding whether and when to initiate 'infringement proceedings' [1] . Regarding the substance of an infringement complaint, the Ombudsman may only intervene in case there is an indication that the Commission was manifestly wrong in its presentation of the facts or of the law.

The Commission has concluded that the legislation in Aragón is not in breach of EU law. In view



of the information available, we find nothing to suggest that the Commission manifestly misinterpreted the facts or the law.

Although I understand you will be disappointed with this reply, I nevertheless hope you find these explanations helpful. [2]

Yours sincerely,

Tina Nilsson

Head of the Case-handling Unit

Strasbourg, 15/03/2022

[1] 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>.

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