

Decision on how the European Commission dealt with a complaint that Ireland violates EU environmental law as regards the disposal of dog waste in or near Natura 2000 areas (CHAP (2019)1722) (case 990/2022/ABZ)

Decision

Case 990/2022/ABZ - Opened on 14/06/2022 - Decision on 14/06/2022 - Institution concerned European Commission (No maladministration found) |

Dear Ms X,

You recently submitted a complaint to the European Ombudsman against the European Commission concerning the above issue.

In your complaint to the Commission (CHAP(2019)1722), you argued that the Irish authorities are in breach of EU environmental law, by allowing the disposal of dog waste directly in or in proximity to Natura 2000 areas.

In your complaint to the Ombudsman, you contend that the Commission was wrong to close your infringement complaint. You argue that the Commission was wrong to consider that the Irish legislation [1] you cited does not relate to EU law. You also argued that the Commission mistakenly identified the applicable EU law, the Nitrates Directive [2] , and failed to take into account other legislation, such as the Animals by-products Regulation [3] and the Waste Framework Directive [4] .

After careful analysis of all the information provided with your present complaint, we have decided to close the inquiry with the following conclusion:

There was no maladministration by the European Commission [5] .

The Commission has wide discretion in deciding whether and when to commence an infringement procedure [6] . Its policy on infringements of EU law is set out in its Communication “ *EU law: Better results through better application* ” [7] .

The Ombudsman would question the Commission’s position on an infringement complaint only in case of a manifest error of assessment.



In this case, the Commission provided you with clear information about its position. The Commission observed that disposal of dog waste does not fall under the Animals by-products Regulation, as dogs do not belong to the category of 'farmed animals' [8] but to 'pet animals' [9], in the sense of that regulation. The same applies to the Waste Framework Directive.

The Commission nevertheless found that dogs fall under the definition of 'livestock' as 'animals kept for use or profit' under the Nitrates Directive [10], which regulates the disposal of livestock manure, and, therefore, of dog waste. The Commission concluded that your arguments had not demonstrated a breach of that Directive, but rather that you consider that it *should not* be applicable. As the Commission did not find evidence of systematic non-compliance with EU law, including the Habitats Directive [11] and the Environmental Impact Assessment Directive [12], by the Irish authorities, it closed the case.

Having analysed all of the information above, we consider the Commission's explanations to be reasonable and comprehensive, and we find nothing to suggest that it manifestly misinterpreted the facts or the law.

It is not contradictory that dogs are considered 'pet animals' and 'livestock' at the same time under different EU laws.

We note that you are of the view that EU law should not allow for the spreading of dog waste, given the risks this presents to the environment. The merits of EU law fall outside the notion of maladministration and is thus not something that the Ombudsman can investigate. However, you may consider lodging a petition with the Committee on Petitions of the European Parliament about the matter: <https://www.europarl.europa.eu/petitions/en/home> [Link]

I appreciate this may not be your desired outcome, but I hope you find these explanations helpful.

Yours sincerely,

Tina Nilsson

Head of the Case-handling Unit

Strasbourg, 14/06/2022

[1] The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017: <https://www.irishstatutebook.ie/eli/2017/si/605/> [Link]

[2] <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31991L0676> [Link].



[3] <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32009R1069> [Link]

[4] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0098> [Link]

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

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

[6] 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>.

[7]
[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)
[Link]

[8] Art. 3.6 thereof defines farmed animals as: “(a) *any animal that is kept, fattened or bred by humans and used for the production of food, wool, fur, feathers, hides and skins or any other product obtained from animals or for other farming purposes; (b) equidae*”.

[9] Art. 3.8 thereof defines pet animal as: “ *any animal belonging to species normally nourished and kept but not consumed, by humans for purposes other than farming*”.

[10] Art. 2 d) thereof.

[11] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0043-20130701>
[Link]

[12] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0052> [Link]