



Decision on the European Commission's decision not to pursue an infringement complaint - CHAP(2021)02055, Ireland, alleged infringements of EU environmental law in Galway County, Ireland (case 1672/2022/EIS)

Decision

Case 1672/2022/EIS - Opened on 03/10/2022 - Decision on 03/10/2022 - Institution concerned European Commission (No maladministration found) |

Dear Ms X,

You recently submitted a complaint to the European Ombudsman on behalf of Mr Y against the European Commission concerning the above issue.

In your infringement complaint to the Commission, you alleged that, by failing to take preventive and remedial action as regards the waste dumped by the company X at the Y, Ireland had breached EU environmental legislation. In particular, you referred to Directive 75/442/EEC on waste, the Waste Framework Directive, the Environmental Impact Assessment (EIA) Directive, the Marine Strategy Framework Directive and Article 3(3) of the Treaty on European Union in respect of protection of Europe's cultural heritage. You contended that appropriate measures to ensure that waste was disposed of without harming the environment had not been adopted, and an EIA on the damage caused by the dump to the Y site had not been carried out. You also argued that adequate action had not been taken as regards continuing pollution of the ocean. You further alleged that the incident took place at a designated Natura 2000 site.

In your complaint to the Ombudsman, you argue that the Commission wrongly closed your infringement complaint, as it failed to consider that the case demonstrates the existence of a general, persistent and systematic practice of non-compliance by Ireland with EU environmental law. You claim that the Commission should give your case strategic priority and review its decision not to open infringement proceedings against Ireland.

Regarding infringement complaints, the appropriate way to address the Commission before turning to the Ombudsman is to make comments on the Commission's intention to close the case. We note that, in the Commission's pre-closure letter of 11 October 2021, you were invited to submit, within four weeks, any new information that could justify a re-assessment of the case. It is not clear from the information that you have provided whether you used the



opportunity to provide the Commission with such information. Nevertheless, after careful analysis of all the information you provided with your complaint, we have decided to close the inquiry with the following conclusion:

There is nothing to suggest that the European Commission acted with maladministration. [1]

The Commission has wide discretion in dealing with infringement complaints. [2] Its policy and priorities when dealing with infringements of EU law are set out in its communication *EU law: Better results through better application* [3]. The role of the Ombudsman in cases concerning how the Commission dealt with infringement complaints is to ensure that the Commission *explained properly* how it has exercised its discretion and given the complainant the opportunity to provide comments before the Commission closed the case.

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 its position on your infringement complaint. In particular, the Commission informed you of its settled practice to focus, as a matter of priority, on the most significant breaches of EU law that reveal a *general, persistent and systematic* non-compliance. [4] The Commission has sufficiently explained why it does not consider your infringement complaint to reveal a *general, persistent and systematic* non-compliance. The Commission has the discretion to take this view.

For the above reasons, the Ombudsman has closed the case.

While you may be disappointed with the outcome of the case, we hope that you will find the above explanations helpful. Thank you for having contacted the European Ombudsman.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 03/10/2022

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

[2] See judgment of the Court of 14 February 1989, 247/87, *Starfruit v Commission*.

[3]

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2017.018.01.0010.01.ENG&toc=OJ



[4] See the previous footnote.