



Decision in the above case on how the European Commission assessed a complaint alleging an infringement of EU Law by Austria as regards Geo-blocking rules

Decision

Case 1950/2022/NK - **Opened on** 24/11/2022 - **Decision on** 24/11/2022 - **Institution concerned** European Commission (No maladministration found) |

Dear Mr X,

On 28 October 2022, you complained to the European Ombudsman against the European Commission concerning the handling of your infringement complaint CHAP(2020)01752 against Austria.

In your complaint to the Commission, you argued that Austria did not properly implement the Geo-blocking Regulation [1] , as the competent national authority rejected your complaint concerning a breach of the Regulation, allegedly without a careful examination and justification.

In your complaint to the Ombudsman, you argue that the Commission has handled your infringement complaint incorrectly. In your view, the Commission erred in limiting itself to establishing that a competent national authority was designated rather than examining the authority's functioning. Furthermore, you argue that the Commission erroneously classified the matter as an individual case and did not identify a systemic problem.

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

The evidence and information provided in the complaint to the Ombudsman does not indicate any maladministration by the European Commission.

The Commission has a 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 complaints about how the Commission has dealt with concerns regarding action or measures adopted by Member States, the Ombudsman's role is limited. It is not within the Ombudsman's mandate to examine a Member State's compliance with EU law.



The role of the Ombudsman in such cases is to ensure that the Commission has given the complainant the opportunity to provide comments before it closes a case and that in its reply, it complies with the principle of good administration by adequately addressing the raised concerns in a clear and reasonable manner. The Ombudsman will only intervene in case there is an indication of a manifest error of assessment by the Commission.

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 closed the infringement complaint.

The Commission considered that the information submitted by you did not demonstrate that the Geo-blocking Regulation was applied incorrectly by the Federal Office for Metrology and Surveying. Furthermore, the Commission has informed you that your complaint can best be dealt with at national level and has advised you to turn to the national courts, as your complaint relates to an individual decision by a national administrative authority and does not constitute evidence of a systematic non-compliance by Austria with EU law.

We consider that these explanations are clear and reasonable and that the Commission has not committed a manifest error of assessment.

We have therefore closed the case. [4]

I understand that this may not be your desired outcome, but I hope that you find these explanations useful. Thank you for contacting the European Ombudsman.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 24.11.2022

[1] Regulation 2018/302 of 28 February 2018 on measures against unjustified geo-blocking and other forms of discrimination based on the customer's nationality, residence or place of establishment within the internal market:

<https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:32018R0302&from=EN> .

[2] see judgment of the Court of Justice of 14 February 1989 in Case C-247/87 *Star Fruit v Commission* :

<https://eur-lex.europa.eu/resource.html?uri=cellar:e4c3d14b-516a-43a2-bc26-4fdc28336562.0003.06/DC>

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[3] Commission communication EU law: Better results through better application (2017/C 18/02):

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



[4] Full information on the procedure and the rights associated with complaints can be found at <https://www.ombudsman.europa.eu/de/document/70707> .