

Decision of the European Ombudsman on the European Commission's decision not to pursue an infringement complaint against Croatia concerning importation of olive oil and honey (case 2098/2022/NH)

Decision

Case 2098/2022/NH - Opened on 20/12/2022 - Decision on 20/12/2022 - Institution concerned European Commission (No maladministration found) |

Dear Sir or Madam,

On 22 November 2022, you complained to the European Ombudsman about how the European Commission dealt with your infringement complaint against Croatia.

In your complaint to the Commission, you argued that, while you were travelling by car from Greece to Belgium in 2021, you crossed the border between Serbia and Croatia through the Bajakovo border crossing point and were subject to a decision by the Croatian border guards to fine you for unlawfully importing 50 litres of olive oil and 10 kilogrammes of honey. The border guards also confiscated those products.

In your complaint to the Ombudsman, you contend that the European Commission was wrong not to take any action in relation to your complaint. You argue that the Commission failed to assess all the available evidence concerning your case and you would like the Commission to re-open your case.

After a careful analysis of all the information in your complaint, we have concluded that there was no maladministration by the Commission in this case. I will explain why below.

The Commission enjoys wide discretion in deciding whether and when to commence an infringement procedure [1] . Its policy on infringements of EU law is set out in its Communication “ *EU law: Better results through better application*” [2] .

The Ombudsman would question the Commission’s position in this regard only in case of a manifest error of assessment. I note that the Commission provided you with clear information on its position in this case, which is that it does not consider it to constitute evidence of systemic non-compliance by Croatia with EU law. The Commission’s position in this regard is reasonable.



Having found no manifest error in how the Commission assessed your complaint, we consider that there was no maladministration. [3]

Please further note that the Commission is not an appeals body for administrative decisions taken at the national level. The infringement procedure is not designed to provide individuals with a means of redress for the *specific grievance* they have at national level. Rather, it is a mechanism for ensuring that Member States are brought into compliance with EU law *generally*.

The Commission has informed you that your case can best be dealt with at national level and has advised you to *“nous vous conseillons d'utiliser les voies de recours nationales à votre disposition en Croatie qui vous permettront de faire valoir vos droits de façon plus directe.”*

I note that you have already written to the Croatian authorities with a complaint. You argue that you have not received a reply to your complaint. I would therefore suggest, if you have not done so in the meantime, that you turn to the Croatian Ombudsman and ask for help in obtaining a reply to your complaint.

The Croatian Ombudsman may receive your complaint:

- by post (Savska cesta 41/3, 10 000 Zagreb)
- or by e-mail to info@ombudsman.hr [Link].

More information can be found on the Ombudsman's website (in English) here:
<https://www.ombudsman.hr/en/> [Link]

For the above reasons, the Ombudsman has closed the case. While you may be disappointed with this outcome, we hope that you will find the above explanations helpful.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 20/12/2022

[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> [Link].

[2]
[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)

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



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