

Decision in case 1171/2016/EIS on the Commission's handling of correspondence concerning alleged illegalities committed by national courts in Estonia

Decision

Case 1171/2016/EIS - Opened on 25/08/2016 - Decision on 24/11/2016 - Institution concerned European Commission (Settled by the institution) |

The case concerned the Commission's failure to reply to the complainant's letter concerning alleged illegalities committed by national courts in Estonia. In that letter, the complainant also criticised the Commission for not taking any action. The Commission explained that it has no competence to intervene in the matter. The Ombudsman inquired into the issue and found that the Commission's explanations were correct, helpful and in line with its statutory powers. The case was thus closed as settled.

The background to the complaint

1. The complainant is an Estonian citizen. He considered that the national courts in Estonia had breached the European Convention of Human Rights (the 'Convention') and the EU Charter of Fundamental Rights (the 'Charter') when dealing with his case [1] . The complainant turned to a number of national bodies (such as the Estonian Ombudsman and the Security Police), but to no avail.
2. On 24 February 2016, the complainant wrote to the Commission. On 13 April 2016, the Commission replied, expressing sympathy with his situation but adding that it has no competence to intervene. The Commission explained that it cannot intervene in the handling of individual cases before national courts, which falls under the exclusive competence of the Member States. Furthermore, the Charter is applicable only when Member States apply EU law. Since there are, for the time being, no legal norms on the EU level that regulate the way in which national judges take decisions in criminal proceedings, the Charter had no applicability in the case at hand. However, should the complainant believe that his rights provided for in the Convention had been violated, he remained free to turn to the European Court of Human Rights within six months after having exhausted the domestic legal remedies. The Commission regretted that it could not help the complainant further and suggested that he seek legal advice from a lawyer.
3. The complainant wrote again to the Commission on 15 April 2016, essentially reiterating his



earlier views. The Commission replied to this letter on 8 June 2016. The Commission referred to its earlier reply, explaining again that it follows from the relevant provisions of the Treaty on the European Union and the Treaty on the Functioning of the European Union that it has no competence to intervene in the matter. It also reiterated the information concerning the European Court of Human Rights and suggested that the complainant could consider turning to a lawyer. Finally, the Commission trusted that the information was helpful and that it had managed to explain its legal position to the complainant.

4. On 15 June 2016, the complainant replied to the Commission. He referred to his contacts with *EuropeDirect*, which had allegedly given him very different information. He thus asked the Commission to reconsider its position.

5. According to the complainant, his e-mail of 15 June 2016 had remained unanswered: he merely received an automatic acknowledgement of receipt on the very same day. The complainant further appeared to criticise the substantive position of the Commission.

The inquiry

6. The Ombudsman opened an inquiry into the complaint and identified the following allegation and claim:

- 1) The Commission failed to reply to the complainant's letter of 15 June 2016.
- 2) The Commission should reply to the complainant's letter of 15 June 2016.

7. In the course of the inquiry, the Ombudsman's inquiry team received the reply of the Commission to the complaint and, subsequently, the comments of the complainant in response to the Commission's reply. In conducting the inquiry, the Ombudsman's inquiry team has taken into account the arguments and opinions put forward by the parties.

Allegation of the failure to reply

Arguments presented to the Ombudsman

8. In its reply, the Commission referred to its earlier replies to the complainant and reiterated that it has regrettably no competence to intervene in the matter. In accordance with the relevant provisions of its Code of Good Administrative Behaviour, the Commission also informed the complainant about its intention to interrupt correspondence with him on the matter, as all the issues raised had been replied to.

9. In his comments, the complainant thanked the Ombudsman's services and considered that he had put forward sufficient evidence to demonstrate that many rights provided for in the Charter and in the Convention had been violated in Estonia. He also referred to his own court case, which allegedly led to his unjustified imprisonment. He further found it inconsistent that, in 2016, the Commission had been very active towards Poland regarding alleged breaches of



fundamental rights in that country but it did not seem to care about Estonia, “ *where the judiciary is still similar to that of the Soviet Union* ”. The complainant also considered that the Commission’s finding that it has no competence to intervene in cases dealt with by national courts is not correct: otherwise the right to a fair trial would be just “ *pie in the sky* ”. Finally, he referred to a speech by Vice-President Timmermans as well as a resolution of the European Parliament of 13 April 2016, by means of which the Commission should act as Guardian of democracy, the rule of law and the respect for fundamental rights towards all the Member States.

The Ombudsman's assessment

10. The Commission has provided a reply to the letter. In terms of substance, it has essentially explained that (i) under EU law, it has no competence to act as an appeal body against decisions taken by national courts; (ii) the Charter has no applicability in the case at hand; and (iii) should the complainant believe that his rights provided for in the Convention have been violated, he remains free to turn to the European Court of Human Rights after having exhausted the domestic legal remedies. The Commission also (iv) gave advice to the complainant by suggesting that he turn to a lawyer.

11. These explanations are correct, helpful and in line with the statutory powers of the Commission. It should also be noted that the complainant turned to the Estonian Ombudsman on the matter.

12. As regards the complainant’s comments about the Commission’s actions towards other Member States and not Estonia, it should be noted that the Commission’s Rule of Law Framework aims at assessing whether there are clear indications of a *systemic* threat to the rule of law, whereas it does not establish to the Commission any powers to intervene in *individual* disputes.

13. In light of all the foregoing, the case is closed as settled.

Conclusion

On the basis of the inquiry into this complaint, the case is closed with the following conclusion [2] :

The case has been settled.

The complainant and the Commission will be informed of this decision.

Strasbourg, 24/11/2016

Marta Hirsch-Ziembinska

Unit 1- Inquiries and ICT



[1] In his view, he had been wrongly convicted for a crime he did not commit.

[2] Information on the Ombudsman's review procedure can be found on the website <http://www.ombudsman.europa.eu/en/atyourservice/complainantsrights.faces>.