

Decision in case 7/2016/PL on the European Commission's language policy in public consultations

Decision

Case 7/2016/PL - Opened on 28/04/2016 - Decision on 18/12/2017 - Institution concerned
European Commission (Settled by the institution) |

The complainant pointed out that public consultations on the European Commission's website are often not available in all the official languages of the EU.

The Ombudsman looked into the matter. In the context of her inquiry, she reminded the Commission of a previous Ombudsman Recommendation from 2012, which asked the Commission to draft clear, objective and reasonable guidelines concerning its language policy in public consultations. She also invited the Commission to explain what measures it had taken since then to deliver on its general commitment to multilingualism.

In the course of the inquiry, the Commission prepared a new language policy on public consultations. The new measures, which became applicable on 28 April 2017, include, for example, translating the public consultations related to the Commission's Work Programme into all EU official languages. The new policy also introduced a procedure to determine into which languages other public consultations should be translated.

The Ombudsman recognises the difficulties, in terms of resources and time, of making public consultations available in all of the EU's official languages. The Commission's new policy on this is likely to increase the extent to which consultations are available in all of the languages. The Ombudsman will be monitoring the Commission's implementation of this policy and the extent to which it respects the principle that public consultations should be made available in all of the EU's official languages.

The background to the complaint

1. The complainant was concerned about the fact that the European Commission's public consultations were often not available in all the official languages of the EU. The complainant did not refer to a specific public consultation, but argued that, by publishing most consultations only in English and/or French, the Commission was failing to ensure that EU citizens and stakeholders can exercise the right to participate effectively in the EU decision-making process.



2. In its initial reply to the complainant, the Commission stated that the languages chosen for its public consultations depended on several factors, such as legal relevance, cost efficiency, urgency and technical limitations. It also stated that, due to budgetary constraints, the Commission could not translate all consultations into all official languages of the EU.

3. Dissatisfied with this reply, the complainant turned to the Ombudsman.

The inquiry

4. The Ombudsman opened an inquiry into the complaint that the Commission, by not making its public consultations available in all official languages of the EU, failed to ensure that EU citizens and stakeholders can exercise their right to participate in the EU decision-making process effectively and on an equal basis.

5. In the course of the inquiry, the Ombudsman invited the Commission to reply to the complainant's concern. Following its initial reply, the Ombudsman met with the Commission. She then asked the Commission to clarify other issues. The Ombudsman's decision takes into account the arguments and views put forward by the parties.

Failure to make public consultations available in all official languages of the EU

6. The Ombudsman dealt with the same issue in a previous case (640/2011/AN). [1] The Ombudsman closed that inquiry in 2012 with the conclusion that the Commission's restrictive language policy amounted to maladministration . **The then Ombudsman called on the Commission to ensure that all EU citizens and stakeholders are able to understand its public consultations, which should, as a matter of principle, be published in all the official languages of the EU .**

7. This issue was also addressed by the European Parliament in a resolution adopted in June 2012 on ' *Public consultations and their availability in all EU languages* ' [2] . In the resolution, the Parliament urged the Commission to ensure that " *every EU citizen's right to address the EU institutions in any of the EU official languages is fully respected and implemented by ensuring that public consultations are available in all EU official languages, that all consultations are treated equally and that there is no language-based discrimination between consultations* " .

8. In December 2012, as part of its 'Communication on Regulatory Fitness' and the accompanying staff working document, the Commission included proposals on public consultations that responded to the Ombudsman's findings and the Parliament's resolution [3] . The Commission stated that it would explore all available means to ensure wider language accessibility of public consultations. It also announced a set of measures to strengthen consultations, which included examining whether consultation documents and summaries could



be more widely translated.

Arguments presented to the Ombudsman

9. The complainant argued that the Commission had breached its obligation to ensure that public consultations were available in all EU languages.

10. In the context of this inquiry, the Ombudsman invited the Commission to explain what measures it had taken since 2012 to meet its earlier commitment to ensure that its public consultations were made available in as many languages as possible. The Ombudsman referred, in particular, to the Commission's dedicated website for public consultations [4] , which showed that the introductory web page of many consultations was often in English only or in a limited number of languages.

11. In reply, the Commission repeated its commitment to the principle of multilingualism and equal treatment. It stated, however, that it also has a duty to manage its resources efficiently. It went on to explain that the resources available for translation are limited and primarily needed to meet the Commission's legal obligations, which mainly focus on making all legislative and key political documents available in all EU languages. Therefore, not all consultation documents could be made available in all EU languages.

12. The Commission mentioned a series of measures it had implemented to facilitate the translation of public consultations, such as shortening the consultation documents and the online questionnaires, using machine translation for specific documents, and streamlining procedures to better facilitate translation needs.

13. The Commission also noted that it had adopted a number of policies [5] and put in place tools and provisions that *"should lead, when implemented, to improved language coverage of consultations"* .

14. Following this initial reply, the Ombudsman learned that the Commission was working on a new language policy on public consultations, which will be included in the 'Better Regulation Toolbox' [6] . The Ombudsman asked the Commission to inform her of the concrete measures in the policy.

15. The Commission replied that it had developed a new policy on translating public consultations. The measures were communicated to its staff on 28 April 2017 and were immediately applicable. The Commission also forwarded to the Ombudsman a copy of the text of this new policy.

The Ombudsman's assessment

16. Under the Treaty, EU citizens have the right to participate in the democratic life of the



European Union [7] . This right requires that the EU institutions maintain an open, transparent, and regular dialogue with representative organisations and civil society. They must also give citizens opportunities to share their views on areas in which the EU takes action [8] .

17. Public consultations are one of the Commission's main tools for involving the public in its activities, by allowing citizens and stakeholders to express their views on potential initiatives or legislative proposals. The Commission has an obligation under the Treaty to ensure that consultations are carried out in a manner that is as broad, open and transparent as possible [9] .

18. For citizens and stakeholders to engage effectively in such a dialogue with the institutions, it is necessary that they understand the information provided to them. Multilingualism is therefore an essential precondition for the effective exercise of this right.

19. In 2012, the Ombudsman asked the Commission to draw up clear, objective and reasonable guidelines concerning the use of languages in public consultations, bearing in mind that any exceptions from the principle of using all languages must be justified and proportionate.

20. When the Ombudsman opened this inquiry, the Commission appeared not to have taken adequate steps to implement the 2012 Recommendation. In fact, many public consultations were still being published in one or a limited number of official EU languages only, without any specific reason being given for this.

21. However on 28 April 2017, during the course of this inquiry, the Commission adopted, a new language policy on public consultations. The main features of that policy can be summarised as follows:

- Public consultations related to the “priority initiatives” under the Commission's Work Programme [10] will be translated into all official EU languages.
- All other public consultations will be made available in, at least, English, French and German.
- Public consultations of broad public interest will be made available in additional languages. The language coverage will be assessed by the Commission and explained in the consultation strategy.
- The introductory summary of the consultations will be translated into all official EU languages.
- Contributions from those wishing to participate in the consultation can be submitted in any of the official languages of the EU.

22. The Commission's recent Communication *'Completing the Better Regulation Agenda: Better solutions for better results'* also briefly refers to the fact that public consultations on “important initiatives” will from now on be available in all official EU languages [11] .



23. The Ombudsman notes that the Commission's new policy attempts to set clear and objective criteria for the translation of consultations. Nevertheless, some aspects of the policy are somewhat vague and open to interpretation. For example, public consultations of broad public interest are to be made available in additional languages. But what constitutes "broad public interest" and in how many "additional languages" will such consultations be made available remains unclear.

24. In the context of this inquiry, the Ombudsman analysed the 61 public consultations the Commission opened between 1 May 2017 and 15 November 2017. These public consultations were launched following the introduction of the new policy. Almost half (29) of these consultations were available in all official languages of the EU. In the case of 13 consultations, that appeared to be directed primarily at a specific sector or stakeholders [12], the summary was published in all EU languages and the specific documents were available in three or more languages.

25. However, the remaining 19 consultations did not follow the new policy [13], either by not making the general accompanying information available in all EU languages, or by not translating the consultation documents where the consultation concerned a priority under the Commission's Work Programme for 2018. Overall, the Ombudsman notes that, of the 61 public consultations assessed, 69% followed, or appeared [14] to follow, the Commission's new policy.

26. The Ombudsman recognises that the Commission, like all other EU institutions, faces a very difficult challenge with multilingualism. Having to communicate in all of the EU official languages is both resource-intensive and time consuming. The Commission has to make difficult decisions on how best to set priorities in the context of its overall budget. But it is vital that the Commission communicates with all EU citizens and not just those who speak English, French or German. However, the Ombudsman acknowledges that the Commission has made some progress since 2012 [15]; and if properly implemented, the Commission's new policy should help increase the language coverage of public consultations.

27. The Ombudsman notes that the Commission's new website dedicated to public consultations does not contain any explanation as to why certain consultations are not available in all EU official languages [16]. The Commission's former 'single access point' for public consultations, the '*Your Voice in Europe*' portal, contained a section '*Why is some information not in my language?*'. The Ombudsman will suggest to the Commission that it create a similar section on the new website, and include a comprehensive explanation about its new language policy for public consultations. The Commission could also include a separate explanation as to why not all public consultations are translated into all EU languages, so as to clarify the reasons why this is the case.

28. In conclusion, the Ombudsman acknowledges the validity of the concerns expressed by the complainant. It is important that these concerns are taken seriously and that the Commission makes every effort to maximise the extent to which its public consultations are made available in all EU languages. The Ombudsman however recognises that there is not a simple or easy



solution to the issues raised in this case. Nevertheless, the Ombudsman expects the Commission to continue to seek solutions which will enhance the capacity of EU citizens, whatever their official language, to engage with and contribute to the governance of the EU. The Ombudsman therefore intends to monitor the Commission's implementation of its new policy on the languages of public consultations with a view to assessing the extent to which its implementation respects the principle **that its public consultations should be published in all official EU languages** . The Ombudsman expects that the Commission itself will also monitor closely how its policy is being implemented.

Conclusion

On the basis of the inquiry into this complaint, the Ombudsman closes it with the following conclusion:

The Ombudsman intends to monitor the implementation by the Commission of its new policy on the languages of public consultations, with a view to assessing the extent to which the Commission respects the principle that public consultations should be made available in all of the official languages of the EU. For the time being, no further immediate enquiries are necessary.

Suggestions for improvement

The Ombudsman suggests that the European Commission closely monitors the implementation of its new language policy and the extent to which it respects the principle that public consultations should be made available in all of the official languages of the EU. The Ombudsman suggests that, in its dedicated website on public consultations, the European Commission includes a section describing its new language policy and an explanation of why some consultations are not available in all EU languages.

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

Emily O'Reilly

European Ombudsman

Strasbourg, 18/12/2017



- [1] Decision closing inquiry into complaint 640/2011/AN available at <http://www.ombudsman.europa.eu/cases/decision.faces/en/12009/html.bookmark> [Link]
- [2] European Parliament resolution of 14 June 2012 on public consultations and their availability in all EU languages (2012/2676(RSP)) <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0256&language=EN> [Link]
- [3] Commission staff working document: Action Programme for Reducing Administrative Burdens in the EU Final Report, accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Regulatory Fitness, {COM(2012) 746 final} {SWD(2012) 422 final} available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012SC0423&from=en> [Link]
- [4] Replacing the former 'Your Voice in Europe' website. Available at: https://ec.europa.eu/info/consultations_en [Link].
- [5] Communication 'Better regulation for better results – An EU Agenda', COM (2015) 215 final; the Better Regulation Guidelines and the Better Regulation Toolbox available at: https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en [Link]
- [6] The Better Regulation Toolbox lists the Commission's initiatives under its 'better regulation' agenda: https://ec.europa.eu/info/better-regulation-toolbox_en [Link].
- [7] Article 10(3) and 11(2) of the Treaty on European Union ('TEU').
- [8] Article 11(1) of the TEU.
- [9] Articles 10(3) and 11(3) of the TEU.
- [10] Annex I of the Commission's work programme.
- [11] Section 2.2 (Transparency, legitimacy and accountability) of the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Completing the better regulation agenda: better solutions for better results" {SWD(2017) 675 final}, 24 October 2017, available at: https://ec.europa.eu/info/sites/info/files/completing-the-better-regulation-agenda-better-solutions-for-better-results_en [Link]
- [12] Although these consultations appear to be primarily addressed to a specific sector or the concerned stakeholders, most indicated that all citizens were welcome to take part. The



Ombudsman understands that the Commission would not consider these to be of “broad public interest”.

[13] Non-compliance of some of the public consultations checked may be due to the fact that they were already ready at the time when the new policy was implemented.

[14] Without checking the individual consultation strategies, the Ombudsman cannot say with certainty that the Commission’s assessment of the need for translation was correct for those consultations that were limited to a number of languages. However, at first glance, these consultations appear to have not been primarily directed at the public in general, but to a specific sector of stakeholders. If so, this would appear to be in line with the Commission’s policy.

[15] In 2011, the Ombudsman checked 11 public consultations of which only one had a website in all official EU languages. Three consultations were available in English, French and German. The remaining seven were in English only.

[16] https://ec.europa.eu/info/consultations_en [Link]