Európsky ombudsman

Rozhodnutia vo veci 8/2017/CEC - Rozhodnutie 8/2017/CEC Údajné zlyhanie EK poskytnúť úplný a presný zoznam udalostí, čo viedlo k uverejneniu rôznych verzií odpovede na parlamentnú otázku o Katalánsku

Rozhodnutie
Prípad 8/2017/CEC - **Otvorené dňa** 07/02/2017 - **Rozhodnutie z dňa** 07/02/2017 - **Dotknutý orgán** Európska komisia (Nezistil sa žiadny nesprávny úradný postup) |

V tejto veci ide o španielske znenie odpovede Komisie na písomnú parlamentnú otázku týkajúcu sa nezávislosti Katalánska, ktoré uverejnila Komisia. Španielske znenie nebolo identické s anglickou jazykovou verziou. Potom ako bola Komisia informovaná o tejto chybe, opravila španielsku verziu tak, aby bola v súlade s anglickým znením. Súčasne vysvetlila, že tento nedostatok vznikol v dôsledku administratívnej chyby.

Sťažovateľ nesúhlasil s tým, že išlo o administratívnu chybu. Tvrdil, že uverejnenie nesprávneho znenia odpovede Komisie v španielskom jazyku bolo úmyselné.

Ombudsmanka vyšetrila túto záležitosť a nenašla žiaden dôvod v prospech tvrdenia, že išlo o úmyselné vydanie chybnej verzie odpovede a v tejto veci nezistila, že by išlo o nesprávny úradný postup Komisie.

The background to the complaint

1. On 21 July 2015, an MEP [1] posed the following parliamentary question to the European Commission related to the independence movement in Catalonia: " *Would the Commission recognise this unilateral declaration of independence, or would it respect Spain's territorial integrity and the Spanish State's competence to manage its internal affairs and essential functions as a State?* " [2]

2. On 21 September 2015, the Commission replied. It stated, in English: " *It is not for the Commission to express a position on questions of internal organisation related to the constitutional arrangements of a particular Member State. The Commission ould refer the Honourable Member to its answer to Written Question P¤009058/2014.* " [3]

3. However, the Spanish version of that answer included an additional paragraph (8-10 lines),

which ended with the sentence: *"The determination of the territory of a Member State is only established by national constitutional law, and not by a decision of a regional parliament contrary to the constitution of that state"* . [4] This additional text was widely reported in the Spanish press.

4. As soon as this discrepancy was spotted, the Spanish version was corrected. The Commission explained to the press that the English version was the version approved by President Juncker. [5] As to the question of whether an investigation would be opened into how the problem occurred, the Commission's Spokesperson said: " *We are enquiring. But human error [is] not unheard of* ". [6]

5. On 17 March 2016, the complainant complained to the Commission in Catalan.

6. In reply, the Commission invited the complainant to send his complaint for translation to the competent designated body by the Spanish authorities. [7] It also stated that it would consider the date of the reception of the translation as the official receipt date.

7. On 24 April 2016 the complainant sent his complaint for translation to the competent designated body. Subsequently, on 27 April 2016, he sent an English version of his complaint to the Commission.

8. After several exchanges with the Commission, the complainant received a reply on 23 December 2016. In this reply the Commission apologised for the delay *"due to the time required to obtain a translation"* . The Commission explained that it had investigated the incident and had concluded that a clerical error had occurred [8] . The Commission rejected the complainant's accusation that there had been a deliberate manipulation or falsification of the President's answer.

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

The inquiry

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

Allegation:

The Commission failed to give a full and accurate account of the sequence of events that led to the publication of diverging versions of President Juncker's reply to a parliamentary question on the independence of the Spanish region of Catalonia.

Claim:

The complainant would like the Commission to apologise for the impact of the reply being issued just before the Catalan elections and for the existence of the additional paragraph in the

first Spanish version published.

11. In the course of the inquiry, the Ombudsman thoroughly analysed the correspondence between the Commission and the complainant.

European Commission's alleged failure to give a full and accurate account of the events that led to the publication of different versions of a reply to a parliamentary question concerning Catalonia

Arguments made by the complainant and the institution

12. The complainant called into question the veracity and the completeness of the Commission's explanation that a clerical error had occurred. He stated that, given the nature of the differences between the English version of the reply and the Spanish version of the reply, the extended reply in Spanish was not a mere clerical error. He stated that it was unlikely that an English draft had ever contained the last paragraph of the Spanish version as the additional text was *"clearly written by a Spaniard who does not usually draft Commission replies (...) and it directly contradicts the second sentence of the same reply, which states that it is not for the European Commission to express an opinion on national constitutional arrangements"* . He also noted that the replies were published only five days before elections in Catalonia.

13. The Commission, in its correspondence with the complainant, regretted the incident and its possible implications. It denied however that the reply in Spanish was a deliberately " *manipulated* " version of the English reply. It stated that it had investigated the case. It stated that its investigation showed that the Commission services responsible for the transmission of the replies to the European Parliament's written questions had made a clerical error. It added that the service erroneously transmitted to the Parliament a previously discarded draft reply which had already been translated into Spanish. It stated that it had subsequently corrected this error and taken measures to avoid similar errors in the future. It stated that, apart from the clerical error, no other procedural incidents had occurred.

The Ombudsman's assessment

14. The Ombudsman notes that the Commission has publicly and clearly communicated that the Spanish version did not correspond to the approved reply in English. It added that its investigation showed that the problem arose because of a clerical error. The Ombudsman finds that the Commission has given a convincing account of what went wrong in this case. Specifically, the Commission's explanation, that the Spanish version was an earlier draft that did not correspond to the English version finally approved by the President of the Commission, is credible. The Ombudsman finds no reason to believe that anything other than a human error occurred. She finds no reason to conclude that the Spanish version of the reply given to the MEP was the result of a deliberate manipulation or falsification by a Commission official.

15. The Ombudsman also notes that the Commission has expressed regret for the incident and its possible implications. She also notes that it is making efforts to ensure that such errors are

not repeated.

16. The Ombudsman finds that there is no basis for the view that the incorrect reply was issued deliberately and thus she finds there was no maladministration on the part of the Commission in that regard.

Conclusion

On the basis of the inquiry into this complaint, the Ombudsman closes it with the following conclusion [9] :

There is no maladministration by the European Commission.

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

Emily O'Reilly

European Ombudsman

Strasbourg, 07/02/2017

[1] Santiago Fisas Ayxelà (PPE)

[2] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2015-011776+0+DOC+XML+V0//EN [Prepojenie]

[3] http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-011776&language=EN [Prepojenie]

[4] The European Ombudsman translation.

[5] http://www.theguardian.com/world/2015/sep/25/jean-claude-juncker-response-on-catalonian-independence-grows-i [Prepojenie]

[6] https://www.thespainreport.com/articles/187-150923205256-catalan-government-calls-for-investigation-into-double-j [Prepojenie]

[7] In accordance with the Administrative Agreement between the European Commission and the Kingdom of Spain (2006/C 73/06 – C73/14 Official Journal 25/03/2006) the Consejería de Asuntos Autónomicos is competent authority for the translation of all correspondence submitted in Catalan.

[8] The Commission referred to its answer to a Parliamentary question on 25 November 2015: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2015-013438&language=EN

[9] Information on the review procedure can be found on the Ombudsman's website [Prepojenie]: http://www.ombudsman.europa.eu/en/resources/otherdocument.faces/en/70669/html.bookmark [Prepojenie].