



P. Nikiforos Diamandouros
European Ombudsman

Mr Cristian SECARĂ
[...]
[...]
ROUMANIE

[...]

Strasbourg, **19 -12- 2012**

Decision of the European Ombudsman closing complaint 1170/2012/AN against the European Commission

Dear Mr Secară,

On 5 June 2012, you complained to the European Ombudsman that the European Commission failed properly to address the concerns you raised in your letters dated 31 October 2011 and 11 April 2012. On 16 July 2012, you provided me with further clarifications concerning your complaint.

I subsequently contacted the relevant service of the European Commission concerning your complaint. In response, the Commission informed me that it replied to you on 1 October 2012. Afterwards, I asked you to submit any observations on that reply, which you did on 2 and 31 October 2012.

I have carefully considered all the material mentioned above and have reached the following conclusions:

In its reply to you dated 1 October 2012, the Commission explained in detail why, under the current EU legislative framework, it considers that it cannot adopt any initiative concerning the issue raised in your complaint. In particular, the Commission clearly explained that, although the Treaties foresee that the Union should respect its rich cultural and linguistic diversity, they have not conferred upon the Union the necessary competences in order to take legislative action in the said field or to oblige Member States to do so. The Treaties themselves provide that the Union will act within the limits of its competences which, unless explicitly granted to it by the Treaties, remain with the Member States.

The Commission moreover explained why, in the current state of play, it considers that it cannot include provisions concerning the subject matter of your complaint in its legislative proposals in other fields of EU law, such as the internal market.



I know that you are dissatisfied with the Commission's above explanations. However, I consider that they are reasonable and complete. They should enable you to understand why the Commission cannot take concrete legislative action in order to ensure results that only Member States are empowered by the Treaties to pursue. Moreover, I do not see the Commission's public declarations in support of the cultural heritage and linguistic and cultural diversity to come in contradiction with the above. On the contrary, I consider commendable that, despite the very narrow limits of its competences, the Commission strives to show its commitment to the protection of the Union's cultural and linguistic diversity.

In your clarifications of 16 July and your observations dated 31 October 2012, you also mentioned that, on the occasion of the 2007 enlargement, the EU requested Microsoft to adapt the operating systems of the institutions so as to enable EU officials to use specific Romanian and Bulgarian characters in written documents.

I have carefully considered whether to ask the Commission for an opinion on this point and have decided that it would not be useful to do so, because this action was a direct consequence of Article 22, paragraph 2, letter d) of the TFEU, which provides that "[c]itizens of the Union ... shall have, inter alia... (d) the right ... to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language", read in conjunction with Article 24, paragraph 4 TFEU, establishing that "[e]very citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 13 of the Treaty on European Union in one of the languages mentioned in Article 55(1) of the Treaty on European Union and have an answer in the same language". It also derives from the obligations imposed on the EU institutions by Regulation 1/1958 determining the languages to be used by the European Economic Community, namely, its Article 3, providing that "[d]ocuments which an institution of the Community sends to a Member State or to a person subject to the jurisdiction of a Member State shall be drafted in the language of such State.", Article 4, stating that "[r]egulations and other documents of general application shall be drafted in the [23] official languages." and Article 5, which enshrines that "[t]he Official Journal of the [Union] shall be published in the [23] official languages.". As you may observe, the need to adapt the operative systems of the EU institution was necessary in order to comply with concrete obligations directly imposed on them by the EU legislation and which did not require the cooperation or previous intervention of Member States in any way.

As regards your disagreement with the apparent opposition between "special" and "normal" alphabetic characters, please note that, in my view, these common language denominations try to distinguish the characters that are shared by most of the EU alphabets from those which are specific to one, or a few, and which are the subject of controversy in your present complaint. This distinction is made for ease of reference and does not appear to amount to a linguistic definition of what is normal and what is not in linguistic terms.

In light of the above, I do not find grounds to conduct further inquiries into your complaint and have closed it.



In reply to your question why your complaint does not appear on my website, please note that only complaints in which a formal opinion was requested to the institution concerned are published on the website. Cases in which an expeditious procedure was used in order to find a rapid solution to a failure to reply of the institution concerned are not published. Since your complaint fell in the latter category, no information regarding it will be published on the website.

Finally, I note that, in your observations, you expressed your willingness to receive a reply in English, although your initial complaint was drafted in Romanian. This is the reason why the present letter is drafted in the former language.

Yours sincerely,

[...]

P. Nikiforos Diamandouros