



Directorate C : Fundamental Rights and Rule of Law
Unit C2 : Fundamental Rights Policy
Head of Unit

Brussels,
JUST/C2/[REDACTED]2021)8612429

[REDACTED]
Milano
Italy
[REDACTED]

Dear [REDACTED],

Thank you for your complaint submitted by emails of 5 and 15 October 2021, registered in Ares with reference Ares(2021)6301593. You submitted this complaint on behalf of the [REDACTED], and allege that a judgment ([REDACTED]) of the *Tribunale Ordinario di Bologna* has been issued in violation of the company's right to a fair and public hearing and the right of defence enshrined in Article 47 of the Charter of Fundamental Rights of the European Union. You refer in particular to the fact that the national court has systematically failed to accept evidence submitted by the complainant as well as refused to appoint an *ex officio* technical advisor, without stating the reasons therefor. Further, you also refer to the length of the proceedings as well as serious problems of credibility and efficiency of the Italian justice system as mentioned in the 2021 EU Justice Scoreboard. You ask the Commission to start an infringement proceeding against the Italian Republic on the grounds of violating Article 47 of the Charter.

First of all, I sincerely apologize for the late response.

I must inform you that under the Treaties on which the European Union is based¹, the European Commission has no general powers to intervene with the Member States in the area of fundamental rights. It can only do so if an issue of European Union law is involved.

The Charter of Fundamental Rights of the European Union does not apply to every situation of an alleged violation of fundamental rights. According to its Article 51(1), the Charter applies to Member States only when they are implementing European Union law. Moreover, Article 6(1) of the Treaty of the European Union states that, "[t]he provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties." For more information concerning the Charter and the circumstances in which

¹ Treaty on European Union and Treaty on the functioning of the European Union

it applies, you may consult the fundamental rights section of the website of the European Commission's Directorate-General for Justice and Consumers².

This means, with respect to the scope of application of Article 47 of the Charter, that an individual may rely on that provision to invoke the protection of their right to an effective remedy and to a fair trial in the context of proceedings before national courts only insofar as those proceedings are related to the alleged violation of rights and freedoms which individuals may derive from Union law, or whose object is related to the application or the implementation of provisions of Union law.

In the present case, following an analysis of the information provided in your emails and the supporting documents submitted, the Commission services are not able to identify any elements substantiating that the matter to which you refer is related to the implementation of European Union law.

For this reason, I have to inform you that it is not possible for the European Commission to follow up on this issue.

Finally, as regards the more general issue of the alleged deficiencies of the Italian justice system, I want to reassure you that the Commission is monitoring the efficiency of justice system in all Member States, including Italy, in the context of the European Semester, the EU Justice Scoreboard, as well as the European Rule of Law Mechanism. In addition, the Council approved the Italian Recovery and Resilience Plan where Italy selected the most urgent and relevant reform priorities and investment needs which are expected to effectively address the challenges identified in the relevant country-specific recommendations for Italy, including the efficiency of the justice system.

Yours sincerely,



² http://ec.europa.eu/justice/fundamental-rights/index_en.htm