



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE

Directorate C : Fundamental Rights and Union Citizenship
Unit C1 : Fundamental Rights and Rights of the Child
 Head of Unit

Brussels
 JUST/C1/VD/vh/ 2979694s

Ralph Th. Kappler
 Tomas Kappa
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Dear MM. Kappler and Kappa,

Thank you for your email of 20 May 2013 concerning regarding the Sorb EU-Memorandum and drawing our attention to recent developments in Lusatia. You can rest assured that your correspondence is translated as needed in the appropriate working languages of the European Union.

Under the Treaties on which the European Union is based¹, the European Commission has no general powers to intervene with the Member States. It can only do so if an issue of European Union law is involved.

In particular, as far as Member States legislation on expropriation procedures and related property rights is concerned, the European Union and the Commission do not have powers, as such, on this matter, which in principle falls under national competence. According to Article 345 of the Treaty on the Functioning of the European Union, the provisions of the Treaty shall in no way prejudice the rules in Member States governing the system of property ownership. This provision implies that Member States are free to define the system of property ownership and to settle property-related disputes within their territories.

Moreover, in the light of the above – and as regrettable as this may be - decisions on restitution of properties expropriated prior to the accession to the European Union is the sovereign decision of the Member States and, as such, falls outside the scope of Union law. In such cases, it is for Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected in accordance with their national legislation and international human rights obligations. You may wish to seek redress at the national level through the competent national authorities, such as through an ombudsman the courts.

I would like also to point out – as we mentioned in our previous correspondence - that the European Union has no general power as regards the minorities. In particular, the recognition of minorities and the legal framework governing the status of minorities falls under national competence. It should be pointed out, however, that the EU Charter of

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

Fundamental Rights, in particular as its Article 21, explicitly prohibits any discrimination on grounds of ethnic or social origin, language or membership of a national minority.

The EU has also adopted an anti-discrimination legislation, which seeks to secure equal treatment of (amongst others) persons belonging to ethnic minorities² and a Framework Decision to combat racism and xenophobia which addresses racist hate speech including when it is targeted at persons belonging to minorities³. In its capacity of guardian of the Treaty, the Commission ensures that these fundamental rights are respected in Union law, including when its provisions are implemented by the Member States.

In addition, please note that anyone who considers that her or his rights or freedoms guaranteed by the European Convention on Human Rights have been violated may lodge a complaint with the European Court of Human Rights (Council of Europe, 67075 Strasbourg Cedex, France⁴). Please note, however, that this Court may only deal with a complaint after all domestic remedies have been exhausted.

Yours sincerely,



Salla Saastamoinen

² Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, *Official Journal L 180, 19/07/2000, p. 22 -26* (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>)

³ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328, 6.12.2008, p. 55–58 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008F0913:en:NOT>)

⁴ <http://www.echr.coe.int/ECHR>