



28.3.2018

NOTICE TO MEMBERS

Subject: Petition No 0606/2017 by Francisca Rodriguez (German) on strategies in dealing with violation of economic rights and property rights abroad

1. Summary of petition

The petitioner argues that her family company, which has been operating in Benin for a few decades and employs more than 1000 people in the region, has suffered several violations of its economic and property rights since the inauguration of the new president of Benin on 6 April 2016. The petitioner claims that the company's economic activities were severely hampered and its property rights violated by the Benin government, through the freezing of bank accounts, arbitrary attempts to expropriate its property and lack of respect for ongoing legal processes and prior Court decisions.

The petitioner calls on the European Commission to support a mediation of her case with the Benin government. A previous mediation attempt led by the President of Ivory Coast in April 2016 failed. While stressing that other companies may have suffered similar problems in Benin, she notes that foreign investments are essential to the successful economic development in Africa, and therefore asks the European Commission to develop effective strategies to secure the rights of investors and owners in Africa. She suggests the Commission to discuss several possible mechanisms to this end, and to include these issues into the EU development aid policies and its political talks with foreign heads of states.

2. Admissibility

Declared admissible on 7 November 2017. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 28 March 2018

The Commission puts high on its political and development policy agenda the promotion of independent justice and fight against impunity in order to improve the investment climate.

The EU passes this message on the occasion of its regular political dialogue with the Beninese authorities as well as the policy dialogue happening notably within the framework of its Budget Support programme on Governance.

In September 2016, the Commission proposed an ambitious External Investment Plan¹ to support partner countries, in Africa and the European Neighbourhood. The plan aims, among other, at facilitating investments by private actors, and improving the business environment in partner countries by supporting reforms and economic governance.

The respect for human rights and fundamental freedoms constitutes one of the essential cornerstones of the legal and political framework provided for by the Cotonou Partnership Agreement, to which Benin is also a Contracting Party.

Conclusion

The Commission recommends that the petitioner consider seeking redress in the national and/or regional legal system(s) against the acts of the government of Benin. Regional fora include the Court of Justice of West African Economic and Monetary Union (WAMEU), the Organization for the Harmonization of Business Law in Africa (OHADA) and the legal mechanisms set up by it, such as the Common Court of Justice and Arbitration.

The Commission intends to continue promoting legal security and an enabling business environment in its policy dialogue with the Beninese authorities in the framework of the implementation of budget support operations, and also through its policy and political dialogues with the government to address key constraints to investment and promote good governance.

The EU Delegation in Benin remains available to provide the petitioner with appropriate advice in the framework of its diplomatic competences.

¹ https://ec.europa.eu/commission/external-investment-plan_en