

**Question for written answer E-001750/2019
to the Commission**
Rule 130
Kinga Gál (PPE)

Subject: Compliance with the principles of effectiveness and due regard for evidence

In case No 2393/103/2013 concerning the restitution of property (an area of forest) appropriated in a Member State (Romania) prior to that country's accession to the EU from an EU citizen who is not a national of that Member State, the competent court of last instance found in favour of the individual concerned.

The final decision in favour of the individual was subsequently repealed in an extraordinary retrial procedure (case No 501/RC/18.04.2013) on the basis of the legal order of the Member State concerned, and the individual's claim was rejected.

In the view of the individual concerned, the decision which resulted from the retrial procedure did not comply with the procedural rules of the Member State concerned, since Articles 317 and 318 of the Law on the Code of Procedure permit an extraordinary appeal in three cases only: if the judge did not have jurisdiction, if the summons were not issued in accordance with the law, or if the court failed to analyse a reason for the appeal.

The court's reasoning was essentially limited to the fact that the property in question was not confiscated from the individual concerned. On the one hand this contradicts the data in the Romanian property records, and on the other, this principle should, under Romanian law, have featured in the earlier stages of the procedure.

Does the Commission consider the practice described above to be compatible with the principles of effectiveness and due regard for evidence (Articles 41 and 47 of the Charter of Fundamental Rights) and with the practice of the European Court of Human Rights with regard to procedural guarantees?