

Decision in case 1936/2018/FP on how the Education, Audiovisual and Culture Executive Agency dealt with a request for access to personal data

Decision

Case 1936/2018/FP - **Opened on** 29/03/2019 - **Decision on** 29/03/2019 - **Institution concerned** European Education and Culture Executive Agency (No maladministration found)

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The case concerned a refusal by the Education, Audiovisual and Culture Executive Agency to disclose the names of staff members who supervised a project in Macedonia.

The Agency refused access on the basis of EU data protection rules which require that the person asking for disclosure of personal data, such as names of persons, must show the necessity of disclosing the names of the persons in question. If that requirement is met, the public authority must still establish whether the legitimate interests of the staff members would be affected by the disclosure of their names and, if so, whether those legitimate interests were more important than the necessity put forward by the person asking for the disclosure of the names.

The Ombudsman found that the complainant has not explained why it was necessary for him to have access to the names. As such, the Agency was justified in refusing to disclose the names of the staff members at issue.

Background to the complaint

1. The complainant is the managing director of a picture house in the United Kingdom.
2. On 10 June 2018, the complainant contacted the Education, Audiovisual and Culture Executive Agency (EACEA) to request information on a project that was carried out by EACEA in Macedonia. In this context, the complainant requested also access to the names of the EACEA staff members who supervised that project in Macedonia.
3. On 25 June 2018, EACEA replied that they were not in the position to provide access to these data and that he should have indicated a “legal interest” in the disclosure of the personal data in question.



4. On 19 September 2018, the complainant replied to EACEA that he was just a concerned member of the public making a request in the public interest and that he did not have any specific “legal interest”.

5. On 2 October 2018, EACEA confirmed that access to personal data could not be granted for data protection reasons.

The inquiry

6. The Ombudsman opened an inquiry into the complaint that the EACEA had wrongly refused to grant access to access to the names of the EACEA staff members who supervised a project in Macedonia.

Issue

Arguments presented to the Ombudsman

7. The complainant considered the EACEA’s refusal to release the names of the staff that was involved in the project in Macedonia as unjustified. He claimed that the names of the staff members of EU institution should be disclosed in the public interest. As regards the protection of personal data, he questioned whose privacy and integrity the EACEA seeks to protect.

8. The EACEA insisted that the release of any such data would prejudice the legitimate interests of the staff members involved. In addition, the EACEA also argued that the complainant had failed to bring forward any justification or argument that demonstrated the necessity of transferring the personal data to him.

The Ombudsman's assessment

9. The names of EU staff members are personal data [1] . In the case of a request such as the one at hand, the institution concerned needs to follow a 3-stage analysis. First, it has to examine whether the requester has demonstrated the necessity of the transfer of the personal data to him. If this is the case, the institution has to establish whether the transfer could undermine the legitimate interests of the “data subjects” (the concerned EACEA staff members). Finally, as a third step, the institution has to carry out a balancing exercise between the interests of the person seeking access to the personal data and the legitimate interests of the data subjects.

10. The Ombudsman notes that complainant has not explicitly put forward any reasons as to why there is a necessity for him to have access to the personal data at issue. The complainant



in fact limited his explanation to the fact that it is in the public interest to know what staff members do within the EU institutions. The EACEA was therefore not in a position to evaluate the necessity of disclosing the personal data to the complainant. The EACEA therefore did not need to take the further step of considering whether the disclosure could have affected the legitimate interest of the individuals concerned.

11. In these circumstances, the EACEA was correct to refuse to provide access to the names of the staff members concerned, in order to protect the personal data and privacy of an identified individual.

12. However, the Ombudsman notes that the EACEA could have been more helpful to the complainant by providing clear explanations on the need to indicate a necessity of having the personal data transferred.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion :

There was no maladministration by the Education, Audiovisual and Culture Executive Agency.

The complainant and the Education, Audiovisual and Culture Executive Agency will be informed of this decision.

Fergal Ó Regan

Coordination of Public Interest Inquiries - Unit 2

Strasbourg, 29/03/2019

[1] At the time in question, this was governed by Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:en:PDF> [Link]

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