

## **Decision in case 2089/2018/TE on how the European Parliament dealt with a request for public access to an overview of business trips by Members of the European Parliament**

Decision

**Case 2089/2018/TE - Opened on 18/12/2018 - Decision on 01/07/2019 - Institution concerned** European Parliament ( No maladministration found ) |

The case concerned the way in which the European Parliament dealt with a request for public access to an overview of business trips by Members of the European Parliament. Parliament informed the complainant that no such “overview” exists.

The EU’s rules on public access to documents apply only to documents in the possession of the institution concerned. Following a meeting with Parliament, the Ombudsman accepts Parliament’s explanations as to why it had not been able to identify any existing document as falling within the scope of the complainant’s request.

However, Parliament did not provide the complainant, when replying to his request, with any explanation as to why the requested document does not exist. The Ombudsman suggests that, in the future, Parliament should ensure that it provides appropriate explanations in such situations.

## **Background to the complaint**

1. In November 2018, the complainant, a German citizen, asked the European Parliament for public access to several documents and information related to the rules on the financing of political groups and on reimbursements of travel expenses of Members of European Parliament (MEPs). He also asked for access to an “ *overview* ” of MEPs’ business trips undertaken individually and within the framework of parliamentary bodies [1] .

2. Parliament gave the complainant documents and information related to the rules on the financing of political groups and on reimbursement of MEPs’ travel expenses.

3. Dissatisfied with the reply, the complainant contacted Parliament again, noting that his request for access to an overview of business trips undertaken by MEPs individually and within



the framework of parliamentary bodies in the current legislative period [2] had remained unanswered.

4. In December 2018, Parliament replied. It provided the complainant with links to several Parliament websites where he could find the “*dispersed*” information on work-related trips by MEPs. Parliament explained that “*a document, gathering the information in aggregate form per MEP as you request, does not exist*” and that it would not be obliged to create new documents under the EU’s rules on public access to documents [3] (Regulation 1049/2001).

5. Dissatisfied with Parliament’s reply, the complainant turned to the Ombudsman on 5 December 2018.

## The inquiry

6. The Ombudsman opened an inquiry into the aspect of the complaint, which concerns Parliament’s failure to identify any existing document containing an overview of business trips undertaken by MEPs in the context of their parliamentary work.

7. The Ombudsman’s inquiry team held a meeting with representatives of the European Parliament to understand whether and, if so, why the requested document does not exist.

## Explanations provided by Parliament to the Ombudsman

8. During the meeting, Parliament explained why it had not been able to identify any existing document as falling within the scope of the complainant’s request.

9. According to Parliament, the reimbursement of MEPs’ official travel is handled by different authorising services within Parliament. Consequently, MEPs’ travel is documented in different databases. For instance, if MEPs travel for matters related to their work in political groups, the travel and related expenses are reimbursed and documented by the relevant political group itself. Each political group has its own rules governing travel and related expenses, which can be very different.

10. The Parliament representatives further explained that, different to EU civil servants, MEPs do not go on “*missions*” (for example, they do not request a business trip to Strasbourg), but they “*travel*” and have “*attendance in official meetings*”. This is because MEPs do not have to ask for, nor obtain, advance authorisation of their travel. They freely manage their time and budget, in accordance with the principle of the free exercise of their mandate. The financial services are involved to the extent that MEPs are entitled to specific travel and subsistence allowances in respect to the days they are present in the different official bodies of Parliament. MEPs prove their presence, normally by signing an attendance register.

11. Parliament’s Unit on ‘Members’ Travel and Subsistence Expenses’ documents these



attendances, related travel (including travel methods, departure points, stopovers and destinations) and expenses in an electronic database. Via a standardised operation, it is possible to extract certain information from the database in form of “ *standard reports* ”. These standard expenses reports contain recorded travels for purposes of reimbursement under the Members’ statute, including all segments of travel, and related expenses in a legislative period per MEP. These reports are provided upon request to the individual MEPs concerned, who may decide to publish them.

**12.** However, there is no standard report containing an *overview* of all business trips undertaken by MEPs that could have been created from the electronic database via a standardised operation.

## The Ombudsman's assessment

**13.** The Ombudsman notes that the right of public access to documents applies only to documents in the possession of an institution [4] , that is, to “ *existing documents* ”. As regards data held in electronic databases, the Court of Justice of the EU clarified that “ *all information which can be extracted from an electronic database by general use through pre-programmed search tools ... must be regarded as an existing document* ” [5] . On the contrary, any information whose extraction would require a substantial effort, such as the programming of a new type of search query, must be regarded as a “ *new document* ” [6] .

**14.** In light of that, the Ombudsman agrees that an overview of all MEPs’ business trips, as requested by the complainant, does not exist.

**15.** The Ombudsman therefore concludes that Parliament was legally justified in stating that it could not identify any existing document as falling within the scope of the complainant’s request.

**16.** The Ombudsman notes, however, that Parliament did not provide the complainant with any explanation as to why the requested overview does not exist; it provided the above explanations only to the Ombudsman’s inquiry team. This is regrettable and the Ombudsman will make a suggestion to that effect.

## Conclusion

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

**The Ombudsman has found no maladministration in how the European Parliament handled the request for public access to documents.**

The complainant and the European Parliament will be informed of this decision .



## Suggestion for improvement

**Parliament should ensure that it provides appropriate explanations to applicants for public access to documents, if it concludes that a requested document does not exist.**

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Strasbourg, 01/07/2019

[1] In German: „*Informationen über [...] die durchgeführten Dienstreisen von Abgeordneten im Rahmen von Einzeldienstreisen sowie der Dienstreisen im Rahmen der Gremien (Ausschüsse, Delegationen, etc)*“.

[2] In German: „*eine Übersicht über die Dienstreisen der Abgeordneten im Rahmen von Einzeldienstreisen oder Gremiendienstreisen in der aktuellen Legislaturperiode*“.

[3] Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001R1049> [Link]

[4] Article 2(3) of Regulation 1049/2001.

[5] Case C-491/15 P *Typke v. Commission* [2017] ECLI:EU:C:2017:5, para. 37.

[6] Case C-491/15 P *Typke v. Commission* [2017] ECLI:EU:C:2017:5, paras. 39 and 47.