



## Decision in case 1399/2019/FP on how the European Parliament handled a request for public access to documents on the use of EU funds in Albania

Decision

**Case 1399/2019/FP - Opened on 12/11/2019 - Decision on 12/11/2019 - Institution concerned** European Parliament ( No maladministration found ) |

The case concerned a request to the European Parliament for public access to documents underlying a mission report of the Parliament's Committee on Budgetary Control.

The Parliament was unable to identify any document as falling within the scope of the complainant's request.

The Ombudsman inquired into the issue and found the Parliament's position to be reasonable. The Ombudsman closed the inquiry with a finding of no maladministration.

Background to the complaint

1. The complainant is a Greek lawyer active in the area of international human rights law.
2. On 5 April 2019, the complainant submitted to the European Parliament a request for public access to documents. He requested information on a report issued by Parliament's Committee on Budgetary Control (CONT) following a fact-finding mission in Albania in 2018. [1]
3. The complainant was specifically interested in receiving clarifications and supporting documentation that would justify the statement from that report that: "*[t]he visit confirmed that the EU funds spent in Albania are used well and efficiently and that the level of irregularities and fraud is not at an abnormal level*".
4. In this context, he asked for "*copies of all documents compiled by CONT, during or after its mission to Albania, relating to its review of the way EU funds are used and/or how the Committee came to the conclusion that EU funds are not being misused, or subject to practices of corruption.*"
5. On 18 April 2019, the Parliament responded to the complainant that it identified the "report on the fact-finding mission of the Budgetary Control Committee (CONT)" (already published on the Parliament's website), [2] as the only document relevant to his request. In addition, it clarified which information sources formed the basis of the statement in the report that was of particular interest to the complainant.



6. On 23 April 2019, the complainant wrote again to the Parliament reiterating his request to identify any documents relating to that statement on the level of corruption in Albania and asked to be provided with copies thereof.

7. On 5 June 2019, the Parliament responded to the complainant by stating that it did not hold any other document relevant to his request.

8. Dissatisfied with this reply, the complainant turns to the Ombudsman.

The inquiry

9. The Ombudsman opened an inquiry into the manner in which Parliament dealt with the complainant's request for public access to documents.

## Arguments presented to the Ombudsman

10. The Parliament identified the '*Report on the fact-finding mission of the Budgetary Control Committee (CONT)*' [3] as the **only document** relevant to the complainant's request.

11. In its initial reply, the Parliament explained that the statement included in CONT's report, on the level of corruption in Albania, was based on documents provided by other EU institutions [4] (which Parliament provided to the complainant with its reply), and on the conclusions drawn at political meetings held by the members of the Committee delegation. [5]

12. The complainant was not satisfied with the Parliament's initial decision. According to the complainant, the fact that the statement in the report [6] mentions that irregularities and fraud were not at an *abnormal level* indicates the existence of at least some documentation relating to some evidence on the actual level of corruption in Albania.

13. The complainant therefore reiterated his request to identify any such documents and to be provided with copies thereof.

## The Ombudsman's assessment

14. In accordance with the presumption of legality attaching to Union acts, where the institution asserts that a particular document to which public access has been sought does not exist or is not in the possession of the institution, there is a presumption that these statements are true and accurate. [7]

15. This presumption of legality is rebuttable in cases where a complainant provides relevant and consistent evidence and arguments that the requested document indeed exists and is in the possession of the institution. In this case, however, the complainant has not provided such evidence and arguments.



**16.** Indeed, the Ombudsman notes that when the Parliament stated that it did hold any more documents falling within the scope of the complainant's request, it explained why this was the case. [8] The Ombudsman considers that this was a reasonable explanation.

**17.** Furthermore, in the course of the Ombudsman's inquiry, the Parliament reiterated its assertion that no relevant documents are held, other than those that have already been made available to the complainant, and the explanation for reaching that conclusion.

**18.** The Ombudsman is satisfied with the Parliament's reasoned assertion that it holds no further relevant documents and thus considers there was no maladministration by the Parliament.

Conclusion

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

**There was no maladministration by the European Parliament.**

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

Fergal Ó Regan

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Strasbourg, 12/11/2019

[1] For more information see:

<https://www.europarl.europa.eu/committees/en/events-other.html?id=20181002EOT03061>

[2] Draft report on the fact-finding mission of the Budgetary Control Committee (CONT) to Albania 7-9 May 2018 published at:

[https://www.europarl.europa.eu/cmsdata/154043/2018-09-12\\_CONT%20mission%20report%20to%20Alb](https://www.europarl.europa.eu/cmsdata/154043/2018-09-12_CONT%20mission%20report%20to%20Alb)

[3] see footnote n. 2.

[4] Reports of the European Commission (

<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>

) and of the Court of Auditors (

<https://www.eca.europa.eu/en/Pages/NewsItem.aspx?nid=9663> ).

[5] All meetings were listed in in the annex of the CONT mission report "final programme of the fact-finding mission of the Budgetary Control Committee to Albania Members of the delegation: 7 - 9 May 2018".



[6] On page 2 of the report: “ *The visit confirmed that the EU funds spent in Albania are used well and efficiently and that the level of irregularities and fraud is not at an abnormal level*” .

[7] Case T-468/16, *Verein Deutsche Sprache v Commission*, ECLI:EU:T:2018:207, paragraph 35.

[8] See paragraph 11.