

European Ombudsman's letter to the European Commission on the European Commission's refusal to grant public access to a legal opinion related to an alleged conflict of interest in Czechia - GESTDEM 2019/4997

Correspondence - 18/02/2020

Case 193/2020/EWM - **Opened on** 18/02/2020 - **Decision on** 25/03/2020 - **Institution concerned** European Commission (No maladministration found) |

Mr Christian Linder

Secretariat-General

Head of Unit - C2

Ethics, Good Administration &

Relations with the European Ombudsman

European Commission

Complaint 193/2020/EWM

Subject: The European Commission's refusal to grant public access to a legal opinion related to an alleged conflict of interest in Czechia - GESTDEM 2019/4997

Dear Mr Linder,

The Ombudsman has received a complaint from Mr X against the European Commission. She has asked me to deal with the case on her behalf.

The complaint concerns the Commission's refusal to grant full public access to a legal opinion of the Commission's Legal Service for the director-general of the Directorate-General for Regional and Urban Policy dated 19 November 2018 related to the interpretation of Article 61 of Regulation 2018/1046 with regard to the alleged conflict of interest of the Czech Prime Minister.



The complainant submitted an access to documents request to the Commission on 28 August 2019. The Commission decided not to grant access to the requested document arguing that disclosure would undermine the protection of the purpose of inspections, investigation and audits and the protection of legal advice. The Commission thereafter confirmed its position in its response to the complainant's confirmatory application.

We have decided to open an inquiry into the complaint against the Commission's decision to refuse access to the requested document under Regulation 1049/2001.

Regulation 1049/2001 states, in its Articles 7 and 8, that applications for access should be handled promptly. It is in line with this principle that the European Ombudsman will also seek to deal with cases such as this as quickly as possible.

As a first step, I consider it necessary to review the document at issue in the complainant's request. I would be grateful if the European Commission could provide me with a copy of the document at issue in case GESTDEM 2019/4997 by **25 February 2020**.

Documents which the Commission considers to be confidential will not be disclosed to the complainant or any other person without the prior agreement of the Commission. Documents of this kind will be handled and stored in line with this confidential status and will be deleted from the European Ombudsman's files shortly after the inquiry has ended. [1]

The Commission's position has been set out in its initial reply and in its confirmatory response. However, should the Commission wish to provide additional views, to be taken into account by the European Ombudsman during this inquiry, I would be grateful if they could be provided to me within fifteen working days from the receipt of this letter, that is, **3 March 2020**.

If you have any questions, you can contact me at the following telephone number: +32 2 28 43548, or the case handler, Ms Elke Winter-Mes, at the following telephone number: +32 2 28 42543.

Yours sincerely,

Fergal Ó Regan

Head of Inquiries π Unit 2

Strasbourg, 18/02/2020

[1] In accordance with Articles 4.8 and 9.4 of the European Ombudsman's Implementing Provisions:



<https://www.ombudsman.europa.eu/en/legal-basis/implementing-provisions/en> [Link].