

Decision of the European Ombudsman in the case 1470/2020/DL on the Research Executive Agency's refusal to grant public access to projects that received funding under the Horizon 2020 programme, with ethics requirements

Decision

Case 1470/2020/DL - Opened on 07/09/2020 - Decision on 28/10/2020 - Institution concerned European Research Executive Agency (Settled by the institution) |

Dear Mr X,

You submitted a complaint to my Office against the Research Executive Agency (REA) concerning the above issue.

On 29 September 2020, my inquiry team held a meeting with the representatives of REA and the European Commission. Please find enclosed a copy of the report on the meeting.

The representatives explained that all data relating to electronic grant agreements is stored in the reporting tool “Common Research Data Warehouse” (CORDA). While the information you requested was available in the tool when you submitted your requests for access, it could not be extracted through a routine search operation. [1]

In accordance with EU rules on public access to documents [2] , the right of access applies only to documents in the possession of the institution at the time of the request. As such, REA’s decision on your request for public access was correct at the time.

Over the last months, the Commission has made the necessary changes to the CORDA reporting tool. This inquiry has allowed us to confirm that the particular information falling within the scope of your requests can **now** be extracted through normal or routine search operations, using pre-programmed search tools.

The fact that the information can now be extracted does not mean that REA will necessarily provide public access to the documents in question. For REA to determine whether any exceptions set out in the rules on public access apply, I would encourage you to make a new request for public access. Under the rules on public access, REA should deal with your request promptly and indeed I have asked that it do so, given that you first sought access on 15 August



2019. You can of course submit a complaint to my Office if your request is denied.

Given these developments, I have decided to close this inquiry.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 28/10/2020

[1] The Judgment of the Court of January 2017 in case in Case C-491/15P, *Typke v Commission* , paragraph 59, states *"it follows that, as regards databases, anything that can be extracted from them by means of a normal or routine search may be the subject of an application for access made pursuant to Regulation No 1049/2001"*.

[2] Article 2(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> .