

Letter from the European Ombudsman to the Executive Director of the European Border and Coast Guard Agency (Frontex) on how the European Border and Coast Guard Agency (Frontex) deals with requests for public access to documents

Correspondence - 01/10/2020

Case 1261/2020/PB - Opened on 01/10/2020 - Recommendation on 21/06/2022 - Decision on 15/12/2022 - Institution concerned European Border and Coast Guard Agency (Maladministration found) |

Case 1361/2020/PB - Opened on 01/10/2020 - Recommendation on 21/06/2022 - Decision on 15/12/2022 - Institution concerned European Border and Coast Guard Agency (Maladministration found) |

Mr Fabrice Leggeri

Executive Director

European Border and Coast Guard Agency (Frontex)

Strasbourg, 01/10/2020

Joint complaints 1261/2020/MAS and 1361/2020/MAS

Subject: Meeting on how the European Border and Coast Guard Agency (Frontex) deals with requests for public access to documents

Dear Mr Leggeri,

I have, in recent months, received several complaints about Frontex's handling of requests for public access to documents, and more specifically about Frontex's portal for public access to documents ('the portal'). I have decided to open an inquiry into the complaints.

Complaint 1261/2020/MAS was submitted by[...], and complaint 1361/2020/MAS by [...].



These complaints refer to the fact that Frontex replies to requests for access to documents through the portal alone and excludes other means, for example, e-mail and external portals such as AskTheEU.org and FragDenStaat.de.

The complainants in case 1261/2020/MAS raised the following additional issues:

- Content on the portal is accessible for 15 working days only.
- There is no possibility of further communication with Frontex after the case has been closed.
- All disclosed documents contain a declaration claiming Frontex copyright over these documents.

In this context, I also refer to complaint 948/2020/MIG [1] , in which the complainant raised the fact that Frontex requires applicants to submit a copy of their ID card and does not provide a secure way to do so.

For the purposes of my inquiry, it is necessary to meet with the relevant representatives of Frontex to clarify the issues put forward by the complainants. In order to facilitate the discussion, please find a list of topics to be discussed during the meeting in an annex to this letter.

I would be grateful if your office could contact Mr Markus Spoerer, (markus.spoerer@ombudsman.europa.eu), who is in charge of this inquiry, to agree the arrangements for the meeting **to take place before 30 October 2020**.

Information or documents that your institution considers to be confidential will not be disclosed to the complainants or any other person without the prior agreement of Frontex. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended [2] .

Yours sincerely,

Emily O'Reilly

European Ombudsman

Enclosures:

- List of topics for the meeting



- Complaint 948/2020/MIG
- Complaint 1261/2020/MAS
- Complaint 1271/2020/MAS

Annex: List of topics to be discussed during the meeting

1. Background and creation process of the portal (reason for the development, development process, stakeholder consultation, legal and technical background)
2. Functionalities and operation of the portal (including a demonstration of front-end and back-end functionalities)
3. Issues raised in the complaints
 - Exclusive use of the portal/restriction of the possibility to submit and to receive documents by e-mail.
 - Possibility to securely submit documents (such as ID cards) outside of the portal
 - Long-term accessibility of documents and correspondence received through the portal
 - Communication after a case is closed, including confirmatory applications
 - Copyright of Frontex documents and the use of a copyright mark
4. Follow-up to the Ombudsman's decision in case 104/2020/EWM on Frontex refusal to deal with a request for public access to documents based on procedural grounds [3]
5. Awareness of current practices and future plans in other institutions, including the European Commission's project for a portal for public access to documents scheduled for 2021

[1] See my Office's letter of 15 September 2020.

[2] In accordance with Articles 4.8 and 9.4 of the European Ombudsman's Implementing Provisions: <https://www.ombudsman.europa.eu/en/resources/provisions.faces> [Link]

[3] <https://europa.eu/!nD63Pd>