

## Letter from the European Ombudsman to the European Commission on the European Commission's refusal to grant public access to documents used in preparing the chapters on Germany and Hungary in its 2020 'Rule of law report'

Correspondence - 11/01/2021

**Case 58/2021/MIG - Opened on 11/01/2021 - Decision on 15/04/2021 - Institution concerned** European Commission ( No further inquiries justified ) |

Mr Christian Linder

Head of Unit - C2

Secretariat-General

European Commission

Strasbourg, 11/01/2021

Complaint 58/2021/MIG

**Subject of case:** The European Commission's refusal to grant public access to documents concerning its 2020 rule of law report on Germany and Hungary, Your reference: GestDem 2020/5867

Dear Mr Linder,

The European Ombudsman has received a complaint from X against the European Commission. [1] The complaint concerns the Commission's refusal to grant public access to the documents on which its 2020 rule of law report was based, in particular the chapters on Germany and Hungary. She has asked me to deal with the case on her behalf.

The complainant made a request for public access to all documents pertaining to the chapters on Germany and Hungary. The complainant specified that his request covered all documents



that were drawn up or assessed in this context, including possible correspondence.

The Commission has not replied to the complainant within the prescribed deadline and therefore implicitly refused to grant public access. The complainant considers that the documents at issue should be released due to their relevance to current political matters.

We have decided to open an inquiry into the complaint.

Regulation 1049/2001 states that applications for access should be handled promptly. It is in line with this principle that the Ombudsman also seeks to deal with cases such as this as quickly as possible.

As a first step, we consider it necessary to review the documents which the Commission identified as falling within the scope of the complainant's access request. We would be grateful if the Commission could provide us with copies of these documents, preferably in electronic format (through encrypted e-mail), by **Monday, 18 January 2021** .

The documents subject to the public access request will be treated confidentially, along with any other material the Commission chooses to share with us that it marks confidential. Documents of this kind will be handled and stored in line with this confidential status and will be deleted from the Ombudsman's files shortly after the inquiry has ended.

The Commission's position has not yet been set out in a response to the complainant. Therefore, should the Commission wish to provide its views, to be taken into account by the Ombudsman during this inquiry, we would be grateful if they could be provided to us by **Monday, 1 February 2021** .

The responsible case-handler for this inquiry is Michaela Gehring.

Yours sincerely,

Rosita Hickey Director of Inquiries

[1] See also the previous complaint 2043/2020/MIG that was found to be inadmissible.