

Letter to the European Commission in joint cases 85/2021/MIG and 86/2021/MIG on the Commission's refusal to give public access to documents concerning the purchase of vaccines against COVID-19

Correspondence - 22/01/2021

Case 85/2021/MIG - Opened on 22/01/2021 - Decision on 12/05/2021 - Institution concerned European Commission (No further inquiries justified) |

Case 86/2021/MIG - Opened on 22/01/2021 - Decision on 12/05/2021 - Institution concerned European Commission (No further inquiries justified) |

Secretariat-General

European Commission

Strasbourg, 22/01/2021

Joint complaints 85/2021/MIG and 86/2021/MIG

Subject of cases: The European Commission's refusal to give public access to documents concerning the purchase of vaccines against COVID-19 (references GestDem 2020/5437 and 2020/5436)

Dear Mr X,

The Ombudsman has received two complaints against the European Commission [1] . She has asked me to deal with these public access cases on her behalf and we have decided to open an inquiry.

Regulation 1049/2001 states that applications for access should be handled promptly and so the Ombudsman also seeks to deal with such cases as quickly as possible.

The complainant is seeking public access to the advance purchase agreements for the procurement of COVID-19 vaccines, which the Commission signed with pharmaceutical



companies, and to other documents related to the negotiations with pharmaceutical companies (such as meetings reports).

The Commission has identified one document relating to the first request, namely the advance purchase agreement signed with X in September 2020. It refused to give public access to this document based on the need to protect the commercial interests of the pharmaceutical company concerned and the need to protect its procurement procedure. The complainant challenged the Commission's decision on 12 November 2020, arguing that there is an overriding public interest in disclosure and calling on the Commission to disclose at least parts of the document. To date, the complainant has not received a confirmatory response from the Commission.

Concerning the second access request to other documents related to the vaccine negotiations, the Commission has not identified any document, nor has it taken a decision on the complainant's request.

As a first step and given the significant public interest in this matter, I would ask the Commission to issue a confirmatory decision on both access requests as soon as possible and at the latest **by 11 February 2021** .

Following this step, we will consider if it necessary to inspect the documents at issue in the complainant's access requests.

Finally, I note that the Commission has in the meantime published - with only limited redactions - a version of the advance purchase agreement signed with X . If the Commission is considering taking a similar step in relation to the agreement at issue in this case, we would appreciate it, if you could provide us with any relevant information in this regard.

Thank you for your cooperation on this important matter.

Yours sincerely,

Rosita Hickey

Director of Inquiries

[1] From the Brussels based civil society organisation - Corporate Europe Observatory