



Letter from the European Ombudsman to the European Commission on its refusal to grant public access to documents

Correspondence - 04/06/2020

Case 787/2020/DL - Opened on 04/06/2020 - Decision on 06/04/2021 - Institution concerned European Commission (No further inquiries justified) |

Ms Ursula von der Leyen

President

European Commission

Strasbourg, 04/06/2020

Complaint 787/2020/DL

Subject: Refusal to grant public access to documents

Dear President,

I have received a complaint from X against the European Commission.

The complaint concerns two separate issues, namely the specific issue of the Commission's alleged refusal to deal properly with a request for public access to documents and a systemic issue of the Commission not publishing proactively its confirmatory decisions.

I will open a separate inquiry into each issue. I will deal with the refusal to deal properly with the specific access to documents request in this inquiry and address the issue of proactive transparency in case 763/2020/DL. I have today sent you a separate letter regarding that inquiry.

As regards the present inquiry, the complainant raises various objections to the Commission's handling of his access to documents request. The complainant considers that:

- the Commission offered an implausible estimate of the workload required to deal with the



access to documents request (it suggested that approximately 3800 working days would be required);

- the Commission failed to seriously engage with the complainant's counter-offer and counter-arguments, and;

- the Commission misquoted a key passage of the complainant's confirmatory application in such a way that it made it appear that the complainant had accepted the Commission's unilateral decision to release only 30 documents.

As a first step, it would be useful to receive a written reply from the Commission on this complaint, in which it explains its position in relation to each of the above-mentioned points.

As regards the Commission's estimated workload to handle this request, I understand the amount of time it takes to handle it will depend on two factors, namely i) the number of the documents requested and ii) the extent of review needed to examine those documents. The documents requested are confirmatory decisions. Would the Commission agree that the only possible confidential information that might be contained in confirmatory decisions would be any personal data of the person seeking access, such as their name and contact details, and possibly the name and signature of the Commission official signing the decision.

We have examined the documents released by the Commission to the complainant, and we have noted that this was the only type of information redacted. The examination and redaction of confirmatory decisions would therefore appear to be limited and routine. Rather than taking up to three days per document, as was suggested by the Commission, the examination and this exercise would take a skilled administrative assistant who had been given clear instructions only a few minutes.

In light of this initial view, the estimated workload of 3800 working days appears to be excessive. Please could the Commission review the position and comment on it specifically.

I would be grateful to receive the Commission's reply by **24 July 2020**.

Please note that I am likely to send your reply and related enclosures to the complainant for comments. If the Commission considers any of the documents to be confidential, please clearly indicate this in your reply. Confidential documents will not be disclosed to the complainant or any other person without the prior agreement of the Commission. Confidential documents are deleted from the Ombudsman's files shortly after the inquiry has ended.

In case you have any additional questions, please contact the case handler Dorien Laermans who is in charge of this inquiry.

Yours sincerely,

Emily O'Reilly European Ombudsman

