



Letter from the European Ombudsman to the Innovation and Networks Executive Agency's (INEA) on its refusal to grant full public access to a document related to the Lyon-Turin base tunnel project

Correspondence - 16/03/2021

Case 465/2021/VB - Opened on 16/03/2021 - Decision on 27/01/2022 - Institution concerned Innovation and Networks Executive Agency (No further inquiries justified) |

Mr Ignacio Ramallo García-Pérez

Head of the Legal Team

Innovation and Networks Executive Agency

Strasbourg, 16/03/2021

Complaint 465/2021/VB

Subject of case: The Innovation and Networks Executive Agency's (INEA) refusal to grant full public access to a document related to the Lyon-Turin base tunnel project

Dear Mr Ramallo García-Pérez,

The Ombudsman has received a complaint from Mr X on behalf of X against the Innovation and Networks Executive Agency (INEA). She has asked me to deal with the case on her behalf.

The complainant asked INEA for access to a document entitled "*amendment n ° 1 to grant agreement n ° INEA / CEF / TRAN / M2014 / 1057372 concerning Action EU-TM-0401-M signed on 17 April 2020*" in relation to the Lyon-Turin base tunnel project.



INEA granted partial access to the document by redacting certain information. It argued that the disclosure of the remaining parts of the document would harm the commercial interests of the legal person concerned and that the complainant had not demonstrated an overriding public interest in the document's disclosure. INEA also argued that the document in question contains personal data and that the complainant had not demonstrated the necessity to transfer that personal data. INEA mentioned that it had consulted the Member States from which the document in question originated, in line with Article 4(5) of Regulation 1049/2001. The Member States objected to disclosure of parts of the document beyond what had already been disclosed.

The complainant takes issue with INEA's decision to partially redact the document and requests full public access.

We have decided to open an inquiry into the complaint against INEA's decision to grant only partial access to the requested document under Regulation 1049/2001.

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 document at issue in the complainant's request. We would be grateful if INEA could provide us with a copy of the amendment to the grant agreement along with any documentation relating to the consultation of Member States (conducted in line with Article 4(5) of Regulation 1049/2001), preferably in electronic format (through encrypted e-mail) [1] , by **23 March 2021** .

The document subject to the public access request will be treated confidentially, along with any other material INEA 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.

INEA's position has been set out in its confirmatory response. However, should INEA wish to provide additional views, to be taken into account by the European Ombudsman during this inquiry, we would be grateful if they could be provided to us within fifteen working days from the receipt of this letter, that is, **6 April 2021** .

The case handler responsible for this inquiry is Mr Vieri Biondi.

Yours sincerely,

Rosita Hickey Director of Inquiries



[1] Please clearly mark such material 'Confidential'. Copies of confidential documents can be sent through secure channels, preferably by encrypted e-mail to eo-secem@ombudsman.europa.eu . Please contact Mr Gaël Lambert, Information Technology Officer at the European Ombudsman for assistance. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.