

## **Letter of the European Ombudsman to the European Border and Coast Guard Agency (Frontex) in case 2067/2020/MIG on how Frontex dealt with multiple requests for public access to documents concerning contracts with private companies**

Correspondence - 22/01/2021

**Case 2067/2020/MIG - Opened on 22/01/2021 - Decision on 16/06/2021 - Institution concerned** European Border and Coast Guard Agency ( Solution achieved ) |

Head of the Inspection and Control Office

European Border and Coast Guard Agency (Frontex)

Strasbourg, 22/01/2021

Complaint 2067/2020/MIG

**Subject of case:** Meeting [1] concerning the European Border and Coast Guard Agency's (Frontex) handling of multiple requests for public access to documents made by a single applicant (references: PAD-2020-00970 and PAD-2020-0237)

Dear Mr Y,

The Ombudsman has received a complaint from X against Frontex. The complaint concerns Frontex's handling of the complainant's requests for public access to documents made on 26 October 2020 and 29 November 2020. She has asked me to deal with the case on her behalf.

On 26 October 2020, the complainant requested public access to a list of contracts under the "Research and Innovation" budget line. Frontex did not deal with this request immediately as it was already dealing with another access request [2] by the complainant which, it said, had to be concluded first. On 13 November 2020, Frontex started dealing with the complainant's access request of 26 October 2020, after the complainant had, upon request, confirmed that he was seeking access to the requested list. On 29 November 2020, the complainant made another request for public access to notifications of relocations pertaining to five different



contracts which Frontex split into batches and also put in a queue.

The complainant is dissatisfied with the way in which Frontex is dealing with his access requests, which he considers does not comply with the applicable rules on public access to documents.

We have decided to open an inquiry into the complaint. For the purposes of this inquiry, we consider that it would be useful to hold a meeting with relevant representatives of Frontex to obtain information on Frontex's practices regarding the processing of multiple access to documents requests made by a single applicant.

From the information submitted by the complainant, we understand that Frontex delays the registration of subsequent requests until the handling of previous requests made by the same applicant is completed. Frontex appears to rely on the principle of proportionality in this regard and on the need to manage the high workload resulting from the access requests concerned.

In order to have a better understanding of how Frontex deals with multiple access to documents requests made by a single applicant, we would find it useful if the following questions could be addressed at the meeting:

- Is there a written policy that reflects Frontex's approach to multiple requests made by the same applicant?
- When does the "queuing" system kick in: after the second consecutive request by the same applicant or only once Frontex's PAD team has reached full capacity?
- How often does it happen that requests have to be put in a queue?
- Is there a maximum amount of time a request can wait in a queue?
- Does the scope of the request (small vs. large document or number of documents requested) play a role?
- Can applicants change the order of their requests? If yes, are they systematically made aware of this possibility?
- Are applicants informed by which date they can expect their requests to be handled?
- Does the "queuing" system apply to all applicants alike?

I would be grateful if your office could contact the responsible case handler, Ms Michaela Gehring to agree the arrangements for the meeting, to take place via videoconference. If you consider this to be useful, the meeting in this case could be held alongside the meeting concerning case 1939/2020/MAS [3] that will take place on Friday, 29 January 2021.

Information or documents that Frontex considers to be confidential will not be disclosed to the complainant or any other person without its prior agreement. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended [4]

Please find the complaint enclosed, along with a previous complaint submitted by the same complainant and into which the Ombudsman found no grounds to open an inquiry.



Yours sincerely,

Rosita Hickey Director of Inquiries

[1] Information gathering and inspections of documents are carried out on the basis of Article 3(2) of the Statute of the European Ombudsman (<http://www.ombudsman.europa.eu/en/resources/statute.faces#hl2> [Link]) and Article 4 of the European Ombudsman's Implementing Provisions: <http://www.ombudsman.europa.eu/en/resources/provisions.faces#hl3>.

[2] Reference: PAD-2020-00170

[3] Case 1939/2020/MAS on how Frontex dealt with a request for public access to correspondence with journalists.

[4] 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]