

## How the European Commission handled a request for public access to documents concerning the quality of medical masks distributed during the COVID-19 pandemic

**Case 790/2021/MIG - Opened on 30/04/2021 - Recommendation on 05/11/2021 - Decision on 25/05/2022 - Institutions concerned** European Commission ( Maladministration found ) | European Commission ( Recommendation agreed by the institution ) |

The complainant asked the European Commission for public access to correspondence exchanged with Member State authorities concerning the distribution of medical masks to protect healthcare workers, as part of the 'Emergency Support Instrument' in the context of the COVID-19 pandemic. The Commission identified 134 documents as falling under the request and proposed to grant him access to a selection of those documents, including some documents with parts of the content withheld. In refusing access, the Commission invoked an exception provided for under the EU's rules on public access to documents, arguing that full disclosure could undermine the commercial interests of the manufacturer in question.

The Ombudsman found that the information at issue could not reasonably be considered to be commercially sensitive within the meaning of the EU's rules on public access to documents. She also took the view that, even if it were, given the quality issues that emerged with the masks concerned by the documents in question and the fact that they were procured using public funds, there is a strong public interest in finding out how this situation was dealt with. The Ombudsman therefore recommended that the Commission should reconsider its position with a view to granting significantly increased, if not full, access to the documents at issue.

In reply to the Ombudsman's recommendation, the Commission agreed to disclose significant additional information to the complainant. The Ombudsman therefore closed the inquiry.