

Letter from the European Ombudsman to the Council of the European Union on the refusal by the Council of the European Union to give full public access to a legal opinion related to the EU trade agreement with the United Kingdom

Correspondence - 21/04/2021

Case 717/2021/SF - Opened on 21/04/2021 - Recommendation on 24/02/2022 - Decision on 17/06/2022 - Institution concerned Council of the European Union (Maladministration found) |

Strasbourg, 21/04/2021

Complaint 717/2021/DL

Subject of case: The refusal by the Council of the European Union to give full public access to a legal opinion related to the EU trade agreement with the United Kingdom

Dear Ms Y,

The Ombudsman has received a complaint from X against the Council of the European Union. She has asked me to deal with the case on her behalf.

The complainant asked the Council for public access to the legal opinion of the Council legal services on the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

The Council granted access to certain non-sensitive parts of the legal opinion, but refused to provide full access based on the need to protect the ongoing decision-making process [1] , international relations [2] and legal advice [3] . The complainant disagrees with the Council's application of the exceptions under Regulation 1049/2001 and would like to receive full access to the document.

We have decided to open an inquiry into the complaint against the Council's decision to refuse full access under Regulation 1049/2001.



Regulation 1049/2001 states that applications for access should be handled promptly. It is in line with this principle that we also seek 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 therefore be grateful if the Council could provide us with a copy of the legal opinion (document 5591/21), preferably in electronic format (through encrypted e-mail [4]), by Wednesday, **28 April 2021**.

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

The Council's position has been set out in its initial and confirmatory replies of 17 February and 8 April 2021. However, should the Council wish to provide additional views, to be taken into account by the European Ombudsman during this inquiry, I would be grateful if they could be provided to me within fifteen working days from the receipt of this letter, that is, by **12 May 2021**.

The timelines set out in this request are those provided for under our Fast-Track procedure for handling public access complaints. If further time is required in order for the Council to conduct the necessary internal consultations, please let us know. The case handler responsible for this inquiry is Ms Dorien Laermans.

Yours sincerely,

Rosita Hickey Director of Inquiries

[1] Article 4(3) of Regulation 1049/2001.

[2] Article 4(1)(a), third indent, of Regulation 1049/2001.

[3] Article 4(2), second indent, of Regulation 1049/2001.

[4] Encrypted emails can be sent to our dedicated mailbox.