

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

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) |

The complainant requested from the Council of the EU public access to a legal opinion related to the EU trade agreement with the United Kingdom. The Council granted access to only parts of the document. In refusing to disclose the full document, the Council invoked several exceptions under the EU's rules on public access to documents, arguing that full disclosure would undermine the protection of an ongoing decision-making process, international relations and legal advice.

The Ombudsman inspected the legal opinion in question and took the view that the Council had incorrectly invoked the exceptions under the EU's rules on public access to documents. She therefore proposed as a solution that the Council grant the widest possible access to the legal opinion. The Council disagreed with the Ombudsman's proposal for a solution.

The Ombudsman considers that the Council's refusal to grant wide public access to the opinion constituted maladministration. She therefore made a recommendation corresponding to the solution she proposed, namely, that the Council grant the widest possible access to the legal opinion. The Council rejected the Ombudsman's recommendation. The Ombudsman therefore closed the case, confirming her finding of maladministration.