

How the European Commission dealt with a request for public access to documents concerning Germany's recovery and resilience plan under the Recovery and Resilience Facility (RRF) (your reference: GestDem 2021/4558)

Correspondence - 23/08/2021

Case 1410/2021/MIG - Opened on 23/08/2021 - Decision on 23/08/2021

Dear President,

On 4 August 2021, Mr X submitted a complaint to my Office concerning how the Commission is handling his request for public access to documents relating to the evaluation of Germany's recovery and resilience plan under the RRF. The complainant is concerned about the delay in processing his access request and considers, among other things, that the Commission should provide him with a list of the documents at issue.

Given that the applicable rules on public access to documents [1] involve a confirmatory procedure that complainants must use before turning to my Office, I consider the complaint to be premature at this stage and have informed the complainant accordingly.

I have, however, decided to inform you of this complaint for the following reasons.

The complainant is seeking access to material that is of significant public interest, relating to unprecedented measures the EU is taking in the context of a global crisis. While the Commission has already made extensive material about the RRF proactively available [2], it arguably should have anticipated that it would receive public access requests such as the request submitted in this case. I have already signalled the need for the Commission, in the context of the measures it has been taking during the COVID-19 crisis, to ensure transparency requirements form part of negotiations, given the important public interests at stake. [3] A similar approach should arguably have informed the Commission's negotiations with Member State authorities on their recovery and resilience plans.

To facilitate the handling of future similar requests, the Commission could consider providing more information on the relevant documents it holds, for example, by recording them in its register of documents. This would help identify documents subject to future public access requests and speed up their handling. I note that, in this case, it took the Commission three



weeks to contact the complainant to obtain further information.

Please find enclosed copies of the complaint (two documents) and my decision on it.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 23/08/2021

[1] Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32001R1049> [Link].

[2] Such as the Commission's proposals to the Council approving the assessment of Member States' recovery and resilience plans, including details on its assessment, or information on the guidance it provided to the Member States.

[3] See: <https://www.ombudsman.europa.eu/en/decision/en/141706> [Link].