

Decision on how the European Commission handled the complainant's request about the meeting appointments of its Coordinator on combating antisemitism and fostering Jewish life (case 809/2021/MIG)

Decision

Case 809/2021/MIG - Opened on 25/05/2021 - Decision on 23/08/2021 - Institution concerned European Commission (No maladministration found) |

The case concerned a request for information on meetings the European Commission's Coordinator on combating antisemitism and fostering Jewish life held with representatives of the State/Government of Israel. The Commission said that it did not hold such a list but compiled a 'list of meetings held with high-level representatives'. The complainant understood this to be an unfair limitation of his request.

In the course of the inquiry, the Commission clarified that the list provided to the complainant was complete and that no other pre-arranged meetings with representatives of the State/Government of Israel had been held. The Ombudsman considered the explanations provided by the Commission to be reasonable and therefore closed the inquiry finding no maladministration.

Background to the complaint

1. In October 2020, the complainant made a request for public access [1] to the Commission, seeking information on meetings held by the Commission's Coordinator on combating antisemitism and fostering Jewish life ('the Coordinator').
2. In December 2020, the complainant specified that he would like to receive *"a list of meetings which the Coordinator had held with representatives of the Israeli state and government, including the Mission of Israel to the European Union, between 1 December 2015 and 6 October 2020."*
3. The Commission informed the complainant that it considered his request to be a request for information. It provided him with a list of *"all bilateral meetings [the Coordinator] held with high-level representatives of the State of Israel and its government"* in the relevant period.



4. The complainant insisted that his request should be considered as a request for public access to documents.
5. The Commission then registered the complainant's access request and informed him that it does not hold any document that would match the description provided by him. For that reason, it said, it had dealt with the complainant's request as a request for information and had compiled a list of meetings with high-level representatives, using different sources.
6. In February 2021, the complainant asked the Commission to review its decision (making what is known as a 'confirmatory application'). He contested the Commission's statement that no document existed. He also said that the Commission had unduly restricted his request to meetings with high-level representatives and asked it to provide him with a list of meetings with representatives *at all levels*.
7. The Commission reiterated that it does not hold any document falling within the scope of the complainant's access request.
8. In April 2021, the complainant turned to the Ombudsman.

The inquiry

9. The Ombudsman opened an inquiry into how the Commission had handled the complainant's request about the Coordinator's meeting appointments.
10. In the course of the inquiry, the Ombudsman's inquiry team held a meeting with representatives of the Commission to clarify certain matters. The Ombudsman provided the complainant with the meeting report and, subsequently, received the complainant's comments on it. The Ombudsman then sought further clarifications from the Commission and the complainant provided his comments on the Commission's clarifications.

Arguments presented to the Ombudsman

11. The complainant considered that the Commission had provided information on some sample meetings only. He argued that, as the Commission had been able to compile a list of meetings between the Coordinator and high-level representatives, it should be able to compile a list of meetings with representatives at all levels.
12. The complainant also contended that EU staff should conduct their work openly and that they should keep proper records of meetings they hold in their professional capacity to allow for public scrutiny.
13. The Commission stated that the list to which the complainant was seeking access, namely a



list of all meetings the Coordinator held with representatives of the State/government of Israel between 1 December 2015 and 6 October 2020, did not exist when the request for access was made. This meant that the Commission was legally entitled to reply to the complainant's request for access to documents by stating that it held no such document. However, with a view to assisting the complainant, the Commission had treated the complainant's request as a "request for information" and had compiled a list of all the meetings held within the relevant period.

14. The Commission also confirmed that the list it had compiled for and provided to the complainant is complete. The fact that the list is entitled a "list of all meetings *with high-level representatives*" is explained by the fact that usually meetings with the Coordinator are held with high-level representatives of the State of Israel. However, the title of the list should not be understood as implying that only high-level representatives of Israel took part in these meetings. Those high-level persons were normally accompanied by their support staff whose personal data was not included in the list.

15. The complainant was not convinced by the Commission's explanations. He considered that the Commission should require its staff to keep a log of their appointments and that the public should be allowed to inspect such logs, particularly, in relation to tasks that have been identified as a priority. The complainant concluded that the Commission should provide "*a full list of all contacts between [the Coordinator] and representatives of Israel at all levels.*"

16. In reply, the Commission stated that it does not hold any additional information in relation to the complainant's request. It said that there had been no other pre-arranged meetings other than those listed in the document it had provided to the complainant.

17. The complainant then responded that his request had not been limited to "pre-arranged meetings". He said that, if the Coordinator has held discussions arranged at short notice or spontaneously, the Commission should disclose details of such discussions.

The Ombudsman's assessment

18. The EU's rules on public access to documents apply only to documents held by the EU institutions. [2] This means that, if the document to which access is sought does not exist, the EU institutions do not have to create a document in reply to the request. [3]

19. In this case, the Commission stated that it did not hold the document to which the complainant was seeking access, namely a list of all meetings between the Coordinator and representatives of the State/government of Israel since the establishment of her function. However, rather than rejecting the complainant's request on those grounds, the Commission made the effort to compile the information in question and created a document which it then provided to the complainant.

20. The Ombudsman thus notes that the Commission provided the complainant with a document containing the information he requested.



21. Given that the Commission described this document as a list of all meetings held with *high-level representatives* , the complainant considered that the list must be incomplete.

22. In the course of the inquiry, the Commission confirmed in writing that the list it provided to the complainant is complete. In particular, it clarified that all meetings the Coordinator held in the relevant period were with high-level representatives. The Commission did not include in the list the names of support staff that had also attended the respective meetings.

23. The Ombudsman considers these explanations to be reasonable. Regarding the complainant's further comments, she notes that the complainant's request concerned the *meetings* of the Coordinator. As such, the Commission's decision to restrict its search to 'pre-arranged meetings' was a reasonable interpretation of the request. The complainant's subsequent request to obtain "*a full list of all **contacts** between [the Coordinator] and representatives of Israel at all levels*" goes beyond his original request.

24. The Ombudsman is therefore satisfied that the Commission has fully addressed the complainant's original request and provided adequate explanations in response to the queries raised by the Ombudsman in the course of the inquiry.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion [4] :

There was no maladministration by the European Commission.

The complainant and the Commission will be informed of this decision .

Rosita Hickey Director of Inquiries

Strasbourg, 23/08/2021

[1] Under 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] In accordance with Article 2(3) of Regulation 1049/2001.

[3] See, for example, judgment of the Court of 11 January 2017, *Typke v Commission* , C-491/15 P, paragraph 31:



<https://curia.europa.eu/juris/document/document.jsf?text=&docid=186682&pageIndex=0&doclang=EN&mode=lst&d>
[Link].

[4] This complaint has been dealt with under delegated case handling, in accordance with
Article 11 of [the Decision of the European Ombudsman adopting Implementing Provisions](#) [Link]