

## How the European Commission dealt with a request for public access to documents concerning the negotiations for the procurement of COVID-19 vaccines

Case opened

**Case** 2206/2021/MIG - **Opened on** 26/01/2022 - **Decision on** 18/07/2022 - **Institution concerned** European Commission ( No further inquiries justified ) |

Ms Ursula von der Leyen

President

European Commission

Dear President,

I have received a complaint from Corporate Europe Observatory against the European Commission.

The complaint is a follow-up to my previous joint inquiry 85/2021/MIG and 86/2021/MIG concerning public access to documents related to the EU vaccine negotiations. In the context of that inquiry, the Commission provided the complainant with a list of 365 documents and promised to assess (and - where it deems possible - to disclose) those documents as swiftly as possible, and to publish them on its website. The Commission also promised that it would proactively re-assess documents that it considers cannot be disclosed in full and that it would remove redactions, when they were no longer deemed necessary.

The complainant considers that the Commission has failed to fulfil these promises and is particularly dissatisfied with the time this process is taking.

I have decided to open an inquiry into this complaint and have concluded that it would be useful to receive a written reply from the Commission on it. In addition, I would appreciate it if the Commission could provide information on the steps it has taken in relation to the complainant's access request since joint inquiry 85/2021/MIG and 86/2021/MIG was closed and on the steps it intends to take going forward, including the envisaged time line.



I note that the Commission issued a decision concerning 80 out of the 365 documents at issue and indicated that it was about to finalise its assessment concerning an unknown number of further documents in June 2021. However, the Commission has not issued another decision since then. Rather, in January 2022, the Commission asked the complainant to reduce the scope of its access request to a specified number of documents (by proposing a 'fair solution' under Article 6(3) of Regulation 1049/2001).

As noted above, the Commission has previously promised to the complainant that it would assess all 365 documents at issue. The Commission has also repeatedly acknowledged the great importance of transparency in the vaccine negotiations. I share this view and am therefore concerned about the more restrictive approach the Commission seems to be taking now, which seems to be at odds with the promises it has previously made to the complainant.

I would be grateful to receive the Commission's reply **by 26 April 2022** .

Please note that I am likely to send your reply and related enclosures to the complainant for comments [1] . We may also decide to publish your reply. The responsible inquiries officer is Ms Michaela Gehring.

If, in the course of this inquiry, the Commission issues any confirmatory decisions to the complainant, we would ask that you share them with us. Similarly, if the Commission becomes involved in court proceedings concerning the same subject matter as this complaint, I would ask you to let us know. [2]

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 26/01/2022

[1] If you wish to submit documents or information that you consider to be confidential, and which should not be disclosed to the complainant, please mark them 'Confidential'. Encrypted emails can be sent to our dedicated mailbox. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.

[2] We are aware of the pending court case T-689/21. However, we understand that that case concerns public access to the Advance Purchase Agreements and Purchase Agreements, whilst this inquiry concerns the 365 "additional" documents the Commission identified in relation to complaint 86/2021/MIG.