

The European Commission's failure to reply to two confirmatory requests for access to documents concerning Germany's recovery and resilience plan under the Recovery and Resilience Facility (RRF)

Case opened

Case 187/2022/LDS - **Opened on** 02/02/2022 - **Decision on** 13/09/2022 - **Institution concerned** European Commission |

Secretariat-General

Head of Unit - C2

Ethics, Good Administration &

Relations with the European Ombudsman

European Commission

Dear Mr Y,

The Ombudsman has received a complaint from Mr X against the European Commission. The Ombudsman has asked me to deal with the case on her behalf.

The complaint is a follow-up to case 1410/2021/MIG [1] and concerns the Commission's failure to reply within the deadlines established by Regulation 1049/2001 to the complainant's confirmatory applications for access to documents registered under GESTDEM 2021/4458 and GESTDEM 2021/6192. The extended deadline to reply to the confirmatory application under GESTDEM 2021/4458 expired on 18 January 2022 and the extended deadline to reply to the confirmatory application in GESTDEM 2021/6192 expired on 28 January 2022.

We are aware that the Commission is conducting consultations on these requests due to their scope, to the sensitivity of the documents requested and to the fact that the documents originate from a third party.



That said, the time limit for handling confirmatory requests is clearly set out in the public access rules. [2] In addition, while the time limit can be extended, this is possible only once. [3] The Commission should thus have replied to the complainant by now.

The complainant further points out that the matter is time-sensitive and that the Commission has been dealing with it for many months now (the first access request was made in July 2021).

We would suggest, if you have not done so in the meantime, that you now reply to the complainant and inform us when it is done. We would ask that the Commission send the reply by 22 February 2022 at the latest.

Please note that, at this stage, our inquiry is focused on securing for the complainant the two confirmatory decisions in question. We are not at this point asking the Commission to share a copy of the relevant documents with us. However, should the delay persist, we may need to come back to the Commission on this.

Attached to this email, please find a copy of the complaint.

Yours sincerely,

Rosita Hickey

Director of Inquiries

Strasbourg, 02/02/2022

[1] See the Ombudsman's letter to the Commission dated 23 August 2021.

[2] Article 8(1) of Regulation 1049/2001.

[3] Article 8(2) of Regulation 1049/2001.