

## How the European Maritime Safety Agency (EMSA) handled a request for public access to documents concerning maritime pollution

Case opened

**Case** 129/2022/OAM - **Opened on** 03/02/2022 - **Decision on** 06/10/2022 - **Institution concerned** European Maritime Safety Agency ( Solution achieved ) |

Dear Mr X,

The Ombudsman has received a complaint against the European Maritime Safety Agency (EMSA).

The complainant requested access to “ *CleanSeaNet warnings and alert reports [..] as well as any feedback forms by member states regarding those warnings and alerts*”. In its initial reply, EMSA refused disclosure saying that the reports contain sensitive information transmitted only to the CleanSeaNet (CSN) national authorised users. It advised the complainant to contact the national competent authorities. In reply to the complainant’s confirmatory application, EMSA said it had identified 210 reports falling within the scope of the request. It explained that parts of the reports cannot be released because disclosure could undermine the protection of the purpose of inspections, investigations and audits, and the protection of commercial interests, including intellectual property. It provided the complainant with a partially redacted report as an example of what information could be released. Following a call with the complainant, EMSA agreed to disclose statistical information instead of the 210 redacted reports. On 8 November and 6 December 2021, EMSA provided documents with statistics on CSN alert reports sought by the complainant for the years 2012-2020.

In his complaint to the Ombudsman, the complainant acknowledges he has received statistical information. However, he says that EMSA did not disclose statistics with the breakdown of feedback received following the CSN alert reports (specifically, statistics on verification results and the type of spill confirmed by the coastal states, that is mineral oil, other substance, unknown feature, natural phenomena, nothing observed). Such data is already available on EMSA’s website for the years 2015, 2016, 2017, 2018. [1] The complainant would like to have access to the same type of data but covering the whole period between 2012 and 2020.

We have decided to open an inquiry into the complaint that EMSA did not provide access to documents containing statistics on the verification results for the whole period 2012-2020.



We are aware, from the documentation available, that EMSA has made a significant effort to accommodate as much as possible the complainant's changes to the initial access to documents request. The specific data falling within the scope of this inquiry was requested by the complainant in his e-mail of 18 November 2021. It is not clear whether, when assessing the access request and subsequent exchanges, EMSA has considered disclosure of the statistics on verification results.

I would suggest, if you have not yet done so, that EMSA now assesses in line with Regulation 1049/2001 whether those specific statistics can be disclosed to the complainant. We are confident that, as similar data was published in the past, disclosure should not be problematic for EMSA. I would be grateful if EMSA can inform the complainant and the Ombudsman about the results of its assessment at the latest by 24 February 2022.

The Ombudsman's inquiry team stands ready to meet with EMSA to discuss this case if this would be helpful. The inquiry officer responsible for the case, Oana Marin.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 03/02/2022

[1] In presentations to CleanSeaNet user group for the years 2015, 2016, 2017, 2018:

<http://emsa.europa.eu/we-do/surveillance/earthobservationservices/324-cleanseanet-user-group.html>  
[Link]