

Decision on how the EU Agency for Law Enforcement Cooperation (Europol) handled a request for public access to documents containing information on Europe's most wanted fugitives list (case 160/2022/OAM)

Decision

Case 160/2022/OAM - Opened on 15/02/2022 - Decision on 15/02/2022

Dear Mr X,

You recently submitted a complaint to the European Ombudsman against the EU Agency for Law Enforcement Cooperation (Europol) about how it handled your public access to documents request. [1] You requested certain information about Europe's most wanted fugitives list which is hosted by Europol. [2] Specifically, you wanted to know the date on which the persons were added to the list and the number of messages and calls received from the public on each of the persons.

Europol has replied that it does not hold any documents containing the information requested.

In your view, Europol's answer is not appropriate.

After a careful analysis of all the information you provided with your complaint, we have decided to close the inquiry with the following conclusion:

The complaint does not reveal maladministration.

The right of public access to documents under Regulation 1049/2001 applies only to documents in the possession of the institution concerned. [3] According to EU case-law, [4] where an institution says that it does not hold documents, it must be presumed that this is true, unless the applicant puts forward evidence that unequivocally calls this into question.

We understand from your complaint that you did not receive the initial reply sent by Europol on 19 November 2021. However, Europol has informed you on 18 January 2022 that it performed an internal examination and it did not identify any documents containing the information you requested.



You did not put forward any evidence to demonstrate that Europol's assertion - that it does not hold any documents - is false. We therefore consider Europol's reply to be reasonable and are closing the case.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 15/02/2022

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

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001R1049> [Link].

[2] The request was made via the AsktheEU portal:

https://www.asktheeu.org/en/request/avisos_buscados [Link].

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

[4] See, for example, judgment of the General Court of 11 June 2015, *McCullough v Cedefop*, T-496/13:

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=164964&pageIndex=0&doclang=EN&mode=lst&d>
[Link].