

The European Commission's refusal to give full public access to documents concerning a Horizon 2020 mineral exploration research project

Case opened

Case 1132/2022/OAM - Opened on 16/06/2022 - Decision on 17/04/2023 - Institution concerned European Commission (No further inquiries justified) |

Case 1374/2022/OAM - Opened on 22/07/2022 - Decision on 17/04/2023 - Institution concerned European Commission (No further inquiries justified) |

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, on behalf of Mr X, against the European Commission concerning a request for public access to documents.

The complainant asked the Commission for access to various documents related to a Horizon 2020 project, namely, New Exploration Technologies (NEXT).

In its confirmatory decision, the Commission identified five documents as falling within the scope of the request.

The Commission decided to give partial access to four documents, subject to redactions for the protection of personal data and commercial interests. [1] The Commission informed the complainant that it needed to notify the third party author about its intention to partially release the documents and wait for a period of ten working days. [2] The Commission said that it would send the documents to the complainant after this period elapsed, unless the third party informs



the Commission that it objects to the partial disclosure using the remedies at its disposal.

The Commission refused to disclose the remaining document, *document 2.1 - San Finx documentation*, in its entirety, invoking the protection of the commercial interests of the third party.

We have decided to open an inquiry into the Commission's decision to refuse access to *document 2.1* under Regulation 1049/2001. Please note that this inquiry does not concern the documents to which the Commission decided to give partial access. However, should the complainant be dissatisfied with the extent of disclosure of these documents, it may submit a new complaint to us.

Regulation 1049/2001 states that applications for access should be handled promptly. It is in line with this principle that the Ombudsman also seeks to deal with cases such as this as quickly as possible.

As a first step, we consider it necessary to review the document at issue to which the Commission refused access in its entirety, along with any documentation relating to the consultation of the third party (conducted in line with Article 4(4) of Regulation 1049/2001). We would be grateful if the Commission could provide us with copies of the documents, preferably in electronic format through encrypted e-mail, [3] by 23 June 2022.

The document subject to the public access request will be treated confidentially, along with any other material the Commission chooses to share with us that it marks confidential. Documents of this kind will be handled and stored in line with this confidential status and will be deleted from the Ombudsman's files shortly after the inquiry has ended.

The Commission's position has been set out in its confirmatory response. However, should the Commission wish to provide additional views, to be taken into account by the European Ombudsman during this inquiry, we would be grateful if they could be provided to us within fifteen working days from the receipt of this letter, that is, by 14 July 2022.

The inquiries officer responsible for the case is Oana Marin.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 16/06/2022

[1] Under Article 4(1)(b) and first indent of Article 4(2) of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents:

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



[2] In accordance with Article 5(5) and (6) of the Commission's Decision on the application of Regulation 1049/2001:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001D0937> [Link].

[3] Encrypted emails can be sent to our dedicated mailbox.