



The European Securities and Markets Authority's (ESMA) refusal to give public access to exchanges with the European Commission on the preparation of 'equivalence decisions' in relation to the United Kingdom

Case 1278/2022/JK - Opened on 15/07/2022 - Decision on 19/06/2023 - Institution concerned European Securities and Markets Authority (No maladministration found) |

The complainant asked the European Securities and Markets Authority (ESMA) to give public access to exchanges with the European Commission on the preparation of 'equivalence decisions' in relation to UK law. ESMA identified a number of documents as falling under the request but granted access only to parts of three documents. In refusing to disclose the remainder, ESMA invoked an exception under the EU's legislation on public access to documents, arguing that disclosure could undermine international relations.

The Ombudsman inquiry team met with representatives of ESMA and inspected the documents to which access was denied. Based on the meeting and the inspection, the Ombudsman found that ESMA's decision to refuse access was reasonable, given the specific nature and content of the documents. However, she identified a number of shortcomings in how ESMA had handled the case and made suggestions to address these.

