

The European Commission's refusal to give public access to an informal arrangement with the Gambia about returning migrants

Correspondence - 15/07/2022

Case 1271/2022/MIG - **Opened on** 15/07/2022 - **Decision on** 01/09/2022 - **Institution concerned** European Commission (No maladministration found) |

Dear Mr X,

The Ombudsman has received a complaint against the European Commission.

The complaint concerns the Commission's refusal to give public access to the EU's informal readmission 'arrangement' with the Gambia.

The Commission refused to give access to the document in its entirety, relying on the need to protect the public interest as regards international relations [1] .

The complainant is dissatisfied with this decision and considers that the Commission should disclose the document in full. She argues that the Commission failed to demonstrate how disclosure would undermine international relations. She also considers that the readmission arrangement at issue should be considered as a legally binding agreement that has to be published in the Official Journal of the EU. Finally, the complainant contends that there is an overriding public interest in disclosure.

We have decided to open an inquiry into the complaint against the Commission's decision to refuse access under Regulation 1049/2001.

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 informal arrangement at issue. I would be grateful if the Commission could provide us with a copy of this document, preferably in electronic format through encrypted e-mail, [2] **by 25 July 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 dated 24 September 2021. However, should the Commission wish to provide additional views, to be taken into account by the Ombudsman during this inquiry, we would be grateful if they could be provided to us **by 19 September 2022** .

The inquiries officer responsible for the case, Ms X, can be reached at the following telephone number: 000 or at Y .

Yours sincerely,

Rosita Hickey

Director of Inquiries

Strasbourg, 15/07/2022

[1] Article 4(1)(a) of Regulation 1049/2001.

[2] Encrypted emails can be sent to our dedicated mailbox eo-secem@ombudsman.europa.eu. Please

contact eo-secem@ombudsman.europa.eu beforehand.