

Report on meeting of the European Ombudsman inquiry team with the European Commission

Correspondence - 21/06/2022

Case 757/2022/MIG - Opened on 06/05/2022 - Decision on 16/09/2022 - Institution concerned European Commission (No maladministration found) |

Case title : The European Commission's refusal to give public access to documents concerning an audit of pelagic and tuna fisheries in Ireland

Date : Wednesday, 01 June 2022

Remote meeting via Webex

Present

European Commission

Deputy Head of Unit, DG MARE

Deputy Head of Unit, DG MARE

Inspector, DG MARE

Legal Officer, DG MARE

Legal Officer, DG MARE

Coordination Assistant for inter-institutional Relations, DG MARE

Deputy Head of Unit, Secretariat General

Legal and Policy Officer, Secretariat General

Senior Expert, Secretariat General



European Ombudsman

Mr Peter Dyrberg, Inquiries and Process Expert

Ms Tanja Ehnert, Inquiries Coordinator

Ms Michaela Gehring, Inquiries Officer

Ms Nina Klubert, Inquiries Trainee

Purpose of the meeting

The purpose of the meeting was for the Ombudsman inquiry team to obtain further information on how the Commission dealt with the complainant's access to documents request and on the state of play of any follow-up to the Commission's audit and/or the administrative inquiry conducted by the Irish authorities.

Prior to the meeting, the inquiry team reviewed the documents at issue in the complainant's access request.

Introduction and procedural information

The meeting started at 11:30 am and ended at 12:20 pm.

The Ombudsman inquiry team outlined the legal framework that applies to meetings held by the Ombudsman and, in particular, that the Ombudsman would not disclose any information identified by the Commission as confidential, neither to the complainant nor to any other person outside the Ombudsman Office, without the Commission's prior consent. [1]

The inquiry team explained that a report on the meeting will be drawn up and that the draft will be sent to the Commission for review to ensure that the report is factually accurate and complete and that it does not contain any confidential information. The meeting report will then be finalised and shared with the complainant who will subsequently have the opportunity to provide comments.

Information obtained

On whether the Commission consulted the Irish authorities on the disclosure of those documents that originated from them

The Commission representatives stated that, given that a general presumption of non-disclosure was applied to all documents at issue in the complainant's public access



request, it was clear that access could not be granted. The Commission did thus not consider it necessary to consult the Irish authorities at any stage.

On the state of play of the follow-up to the Commission's audit and the administrative inquiry by the Irish authorities

The Commission representatives said that follow up actions to the administrative inquiry in Ireland had been ongoing at the time of the adoption of the confirmatory decision. They stated that the administrative inquiry covered a number of the shortcomings identified by the Commission audit and that the Irish authorities' report, dated 13 December 2019, had not resolved the majority of these shortcomings. Follow-up action was therefore required that is still ongoing now.

For example, concerning the revocation of the Irish Control Plan, the Irish authorities have so far not submitted a new long-term plan (to be approved by the Commission) that was considered to be satisfactory. While an interim Control Plan has been put in place, the Irish authorities are set to draw up a revised plan for adoption by the Commission by the end of this year.

The Commission representatives also said that the follow-up action to the audit and the administrative inquiry is interlinked with other ongoing matters, e.g. concerning issues with past quota consumption.

On the possible disclosure of the documents after the follow-up (and the possible infringement proceedings) have been finalised/closed

The Commission representatives said that, generally, once the follow-up actions have been finalised, DG MARE discloses documents related to an audit on a case-by-case basis, and after obtaining the necessary consent [2] of the Member State concerned.

On DG SANTE's practice of publishing [3] veterinary reports

The Commission representatives explained that, to their knowledge, the rules governing DG SANTE's work in relation to controls [4] require the publication of the final outcome of these controls. It is on this basis that DG SANTE publishes its final reports proactively.

As regards DG MARE's work, the applicable rules [5] provide for confidentiality and require the Commission to communicate their findings with the Member State concerned via a secure website, thus ensuring confidentiality.

Conclusion of the meeting

The Ombudsman inquiry team thanked the Commission representatives for their time and for the explanations provided, and the meeting ended.



Brussels, 21/06/2022

Peter Dyrberg Michaela Gehring

Inquiries and Process Expert Inquiries Officer

[1] Article 4.8 of the European Ombudsman's Implementing Provisions.

[2] Article 113 of Council Regulation 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy:

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009R1224> [Link].

[3] See:

https://ec.europa.eu/food/audits-analysis/audit_map/index_table.cfm?sectors=all¶m_year=2021 [Link]

[4] Regulation 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017R0625> [Link].

[5] Article 101 of Council Regulation 1224/2009.