

The European Commission's refusal to give public access to the 'pillar assessment' of an international organisation that is implementing EU funds in the area of migration

Case opened

Case 1731/2022/OAM - Opened on 28/09/2022 - Decision on 24/11/2023 - Institution concerned European Commission (Maladministration found) |

Head of Unit - C2

Secretariat-General

European Commission

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 two pillar assessment reports [1] of an international organisation. Specifically, the Commission refused access to the documents in full, relying on the need to protect personal data (Article 4(1)(b) of Regulation 1049/2001) and the commercial interests of the international organisation concerned (Article 4(2) of Regulation 1049/2001).

The complainant does not challenge the redaction of personal data but contests the non-disclosure of the remaining parts of the documents, arguing that the Commission was not justified in applying the exception for the protection of commercial interests. He also considers that there is an overriding public interest in disclosure, given the amount of funds the international organisation receives from the EU and its prominent role in implementing the EU's migration policy.

We have decided to open an inquiry into the complaint against the Commission's decision to refuse access under Regulation 1049/2001, to the extent that it based its decision on the exception for the protection of commercial interests.



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 two pillar assessment reports at issue as well as the Commission's exchanges with any third party concerned that has been consulted. We would be grateful if the Commission could provide copies of these documents, preferably in electronic format through encrypted e-mail, [2] **by 5 October 2022** .

The documents 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 22 August 2022. 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 within fifteen working days from the receipt of this letter, that is, **by 19 October 2022** .

The inquiries officer responsible for the case is Ms Michaela Gehring.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 28/09/2022

[1] These are referred to as documents '4.1' and '6.1' in the Commission's confirmatory decision of 22 August 2022.

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