

The European Commission's refusal to give public access to documents concerning a project under the EU Defence Industrial Development Programme

Case opened

Case 1980/2022/NH - **Opened on** 10/11/2022 - **Decision on** 14/03/2023 - **Institution concerned** European Commission (No maladministration found) |

European Commission

Dear Mr X,

The Ombudsman has received a complaint against the European Commission. She has asked me to deal with the case on her behalf.

The complaint concerns the Commission's decision to deny public access to the documents requested by the complainant under GESTDEM 2022/2956.

The complainant initially requested access to “ *Documents including a detailed description of the technology developed by the projects that received funding under the EDIDP program (...) and PADR program (...) and the specific military equipment that was produced based on such technology.* ”

We understand from the complaint that the complainant agreed to narrow down the scope of his request after the Commission informed him that it was too large. The complainant proposed that the Commission send him the documents including the description of the largest project funded up to that date.

The Commission identified the following two documents as falling within the scope of the complainant's updated request: “ *Proposal for the Project EDIDP-SME-2019-027-DECISMAR, Ares(2022) 6899139* ” and “ *Grant Agreement Project EDIDP-SME-2019-027-DECISMAR – Annex 1, Ares(2020)5754968* ”.

The Commission refused to give public access to the documents on the basis of certain exceptions set out in Regulation 1049/2001, namely protection of the public interest as regards



public security, defence and military matters as well as protection of commercial interests.

We have decided to open an inquiry into the complaint.

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 documents at issue in the complainant's request. I would be grateful if the Commission could facilitate an on-site inspection of the documents by the Ombudsman inquiry team by 18 November 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. 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 by 30 November 2022.

The inquiries officer responsible for the case, Mr Nicholas Hernanz, can be reached in case of questions.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 10/11/2022