

How the European Commission dealt with a request for public access to documents concerning the EU-US Energy Security Task Force

Case opened

Case 1998/2022/NH - **Opened on** 23/11/2022 - **Decision on** 17/07/2023 - **Institution concerned** European Commission (Solution achieved) |

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 documents concerning the U.S.-EU Energy Security Task Force.

Specifically, the complainant asked for documents containing the following information:

- (i) A list of the Task Force Members,*
- (ii) the topics discussed during its meetings, and*
- (iii) information on the involvement of the Task Force (by way of making recommendations) in any EU legislation or decision.*

The Commission identified five documents as falling within the scope of the complainant's access request. It granted full access to two documents ("*meeting agendas*") and partial access to three documents ("*technical convening agendas*"), redacting the names of companies and associations that had participated in the relevant meetings (addressing point (ii) of the request). In refusing access, the Commission relied on the need to protect the international relations with the U.S. and the commercial interests of the private entities concerned.



Concerning point (i) of the complainant's request, the Commission said that it does not hold a list of appointed Task Force members. However, it informed the complainant about the U.S./EU representatives and officials who had functioned as the chairs/leaders of the meetings held in the period in question.

As regards point (iii) of the complainant's request, the Commission clarified that the Task Force was political and strategic in nature and that it does not issue any conclusions or recommendations. It added that the Task Force was not involved in drafting or preparing EU legislation or decisions. The Commission thus did not identify any documents related to point (iii) of the request.

The complainant would like the Commission to give full public access to the three “ *technical convening agendas* ” at issue. In particular, the complainant considers that there is an overriding public interest in disclosure, namely in knowing what companies play a role in defining the EU's energy supply policies and/or advise the EU on this. The complainant argues that the companies and associations concerned have a private interest in benefitting from EU energy supply decisions and that they could influence the Commission's decisions in this area. The complainant would also like to know more about the content of the meetings of the Task Force.

We have decided to open an inquiry into the complaint against the Commission's decision partially 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 three technical convening agendas at issue in the complainant's request, along with documentation relating to any third party consultation that might have taken place. We would be grateful if the Commission could provide copies of these documents, preferably in electronic format through encrypted e-mail, [1] **by 30 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 reply dated 21 September 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 14 December 2022** .

As regards *the content* of the meetings of the Task Force, we consider that the Commission's interpretation of point (ii) of the complainant's access request was reasonable. We have



therefore informed the complainant that, should it wish to pursue this aspect of the complaint, it would have to make a new access request to the Commission. In addition, we have informed the complainant that the Commission publishes information on the content of the Task Force meetings on its website. [2]

Concerning the delay incurred by the Commission in dealing with the complainant's access request, the Ombudsman shares the complainant's concerns, all the more so on files that are time sensitive. However, in light of our Office's ongoing own-initiative inquiry into the matter [3] , we consider that there are no grounds to look into this aspect of the complaint.

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

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 23/11/2022

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

[2] See, for example,
https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_6582 [Link].

[3] Strategic inquiry on the time taken by the European Commission to deal with requests for public access to documents (case OI/2/2022/MIG).