

The European Commission's refusal to give full public access to documents related to the German plan under the Recovery and Resilience Facility (RRF)

Case opened

Case 137/2023/SF - **Opened on** 27/01/2023 - **Decision on** 27/10/2023 - **Institution concerned** European Commission (Solution achieved) |

Secretariat-General

Head of Unit - C2

Ethics, Good Administration &

Relations with the European Ombudsman

European Commission

Dear Mr X,

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

The complaint concerns the Commission's redactions in 63 documents that it partially disclosed following the complainant's request for public access of 1 September 2022, registered under GestDem 2022/4927.

With its initial reply of 18 November 2022, the Commission granted partial access to 63 documents and refused access to six documents. Concerning the 63 partially disclosed documents, the Commission stated that it redacted personal data [1] and information that did not fall within the scope of the complainant's request.

On 25 November 2022, the complainant asked the Commission to review its decision to refuse



full public access to the 63 partially disclosed documents by making a 'confirmatory application'. He stated that he considered the redactions were arbitrary and that he had reasons to believe that the Commission redacted parts of documents that fell within the scope of his request. In particular, the complainant claimed that he was able to "*copy*" the content of a redacted document that concerned 'Important Projects of Common European Interest' (IPCEI).

The Commission extended the time-limit for its reply to 17 January 2023, but has not provided the complainant with a reply within this extended time-limit.

We have decided to open an inquiry into the complaint against the Commission's decision to refuse full public access under Regulation 1049/2001 to the 63 partially disclosed documents.

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 63 documents at issue in the complainant's request. We would be grateful if the Commission could provide copies of these documents, preferably in electronic format through encrypted e-mail [2] , by 3 February 2023.

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 initial reply. However, should the Commission wish to provide additional views, to be taken into account during the Ombudsman's inquiry, they should be provided to us within fifteen working days of receipt of this letter, that is, by 17 February 2023.

If, in the meantime, the Commission adopts its explicit reply to the complainant's confirmatory application, we would be grateful if you could provide us with a copy of the reply.

If you have any questions, please feel free to contact the inquiries officer responsible for the case, Ms Silvia Fuller.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 27/01/2023

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



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