

Decision on the European Border and Coast Guard Agency's (Frontex) refusal to give public access to a document containing information on return operations in a machine-readable format (case 1877/2022/NH)

Decision

Case 1877/2022/NH - Opened on 08/11/2022 - Decision on 16/03/2023 - Institution concerned European Border and Coast Guard Agency (Settled by the institution) |

The case concerned a request for public access to documents held by the European Border and Coast Guard Agency (Frontex) concerning return operations. The complainant specifically asked to receive the requested documents in a machine-readable format. Frontex disclosed the requested documents, but in a different format.

The Ombudsman asked Frontex to explain in more detail its reasons for providing the complainant with a non-machine readable format. In reply, Frontex disclosed the documents in a machine-readable file format.

Since Frontex settled the problem, the Ombudsman closed the inquiry.

Background to the complaint

1. In July 2022, the complainant made a request for public access to documents held by Frontex concerning return operations undertaken by the agency for the years 2020 and 2021. She specifically requested the data to be provided in a machine-readable table format, preferably .csv or .tsv. [1]
2. Frontex disclosed the requested documents to the complainant, in August 2022, in .pdf format.
3. The complainant asked Frontex to review its decision (by making a 'confirmatory application'). She argued that Frontex had failed to disclose the documents in her preferred format, which was .csv or .tsv, and that .pdf was not a machine-readable format.
4. In reply, Frontex explained that it could not disclose the documents in the format requested by the complainant because it had to delete certain "metadata" (containing personal data) from



the original documents. The only way to do that, Frontex said, was to disclose the documents in .pdf format.

The inquiry

5. The Ombudsman opened an inquiry into the refusal by Frontex to give public access to the requested documents in a machine-readable format.

6. In the course of the inquiry, the Ombudsman requested Frontex to provide additional explanations on the reasons why it refused to provide the complainant with a machine-readable file.

7. Frontex replied and agreed to provide the file in a machine-readable format, namely Excel Binary File Format (.xls). It provided clarifications on its earlier refusal. The complainant also had an opportunity to submit her comments on Frontex's reply.

Arguments presented to the Ombudsman

8. The complainant argued that the EU legislation on public access to documents sets out an obligation for the EU administration to supply the documents “ *with full regard to the applicant's preference* ”. [2] In reply, Frontex said that it interpreted the relevant provisions as putting the emphasis on the obligation to supply the documents in electronic format.

9. Frontex explained that it had to delete certain “metadata” from the original documents, because they contained personal data, and that that was the reason why the original documents had to be converted into a .pdf file. The complainant found this argument unconvincing. She argued that Frontex had - presumably - extracted the relevant information from a database, which could have been easily converted into .csv or similar machine-readable format. She insisted that Frontex could have easily removed metadata from .csv or other machine-readable spreadsheet documents.

10. In reply to the Ombudsman, Frontex agreed to release the documents in a machine-readable format, namely .xls. It explained that .xls was the original file format of the requested documents, but that it had not been initially possible to delete the metadata from the documents without converting them into a .pdf file. In reply to the Ombudsman's inquiry, Frontex explained that it had been able, exceptionally, to find a way to remove the metadata from the .xls files and could now disclose them to the complainant.

11. The complainant did not take issue with the file format eventually disclosed (.xls). However, she commented that she found it unfortunate that it had required a complaint to the Ombudsman for her to get the information released in the format requested.



The Ombudsman's assessment

12. The availability of machine-readable formats plays an important role in the context of open data and open government. In addition to granting public access to documents, the EU administration should strive to make available documents in such formats, whenever possible.

13. The Ombudsman welcomes the fact that Frontex has done so in this case.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion [3] :

Since Frontex agreed to disclose the requested documents in a machine-readable format to the complainant, Frontex has settled the complaint.

The complainant and Frontex will be informed of this decision .

Rosita Hickey Director of Inquiries

Strasbourg, 16/03/2023

[1] Machine-readable formats are structured file formats that a computer may automatically read and process, thus allowing easier manipulation of the data. The complainant requested Frontex to provide the data in comma-separated values (CSV) or tab-separated values (TSV) files, which are simple text format files storing the data either in lines with commas separating each value, or in a tabular structure. Both CSV and TSV are common data exchange formats that are widely supported by consumer, business, and scientific applications.

[2] See Article 10(3) of Regulation (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001R1049> [Link].

[3] This complaint has been dealt with under delegated case handling, in accordance with [the Decision of the European Ombudsman adopting Implementing Provisions](#) [Link]