Európai Ombudsman

A védelmi célú kutatásra irányuló uniós előkészítő intézkedésre vonatkozó javaslatok etikai felülvizsgálatával kapcsolatos dokumentumokhoz való nyilvános hozzáférés biztosításának az Európai Védelmi Ügynökség általi megtagadására vonatkozó 1529/2019/MIG sz. ügyben hozott határozat

Határozat
Ügy 1529/2019/MIG - **Vizsgálat megindítása** 23/08/2019 - **Határozat** 23/03/2020 - **Érintett intézmények** Európai Védelmi Ügynökség (Az intézmény rendezte) |

Az ügy az Európai Unió védelmi célú kutatásra irányuló előkészítő intézkedésére vonatkozott. A panaszos kérte az Európai Védelmi Ügynökség (EDA) által e program tekintetében kapott pályázatok etikai, jogi és társadalmi szempontjairól készített véleményekbe való betekintést. Az EDA az általa azonosított dokumentumok többségéhez az általa érzékenynek minősített személyes adatok és kereskedelmi információk kitakarásával csupán részleges hozzáférést biztosított a panaszos számára.

Az ombudsman megállapította, hogy az EDA által alkalmazott korlátozó megközelítés a támogatásban részesülő pályázatok tekintetében indokolatlan volt. Ezért azt javasolta, hogy az EDA nagyobb mértékben biztosítson részleges hozzáférést az uniós finanszírozásban részesülő valamennyi projekt kereskedelmi információihoz.

Az EDA egyetértett azzal, hogy a sikeres pályázatok ne részesüljenek a vesztes pályázatokkal azonos szintű védelemben, és a panaszos számára szinte korlátlan hozzáférést biztosított a szóban forgó dokumentumokhoz.

Az ombudsman üdvözölte az EDA megoldási javaslatának követésére vonatkozó határozatát, és lezárta a vizsgálatot.

Background to the complaint
1. Following a call for proposals, the EDA received 15 applications for EU funding of research projects for the preparation of a European defence research programme in 2017 and 2018. To decide whether a project should be funded, the EDA assessed, amongst other aspects, the possible ethical, legal and societal implications of the proposed projects

(conducting so-called 'ELSA reviews').

2. In April 2019, the complainant, the Belgian NGO Vredesactie (Peace Action), asked the EDA to give it public access [1] to the ELSA reviews of these research proposals and to related documents.

3. The EDA identified 15 reports summarising its ELSA reviews and 9 documents containing general information on the assessment of PADR proposals. It gave the complainant full public access to three documents and partial access to the remaining 21 documents, relying on the need to protect personal data and the need to protect commercial interests. [2] For example, the EDA considered that the details of its assessment were commercially sensitive as they included weaknesses of the projects, disclosure of which could harm an applicant's business interests.

4. The complainant asked the EDA to review its decision not to disclose the commercial information contained in the documents. The EDA maintained its position.

5. In August 2019, the complainant turned to the Ombudsman. In the course of the Ombudsman's inquiry, the EDA explained that it was holding additional documents, namely the assessment reports that had been drafted by the individual evaluators. These had not been disclosed to the complainant.

The Ombudsman's proposal for a solution

6. Having examined the documents at issue, the Ombudsman agreed that the individual assessments of the evaluators should not be disclosed due to the risks of pressure and self-censorship.

7. Regarding the remaining documents (specifically the 15 summary reports of the ELSA reviews), the Ombudsman found that a distinction should be made between unsuccessful proposals and successful proposals that received funding. She considered that the public has, in principle, a right to be adequately informed about the content of projects financed using public money, including the assessment of their possible ethical, legal and societal implications.

8. The Ombudsman also took the view that disclosure of this information would not undermine the EDA's decision-making, given that the summary reports do not reveal the individual evaluator's views.

9. The Ombudsman therefore made the following proposal for a solution:

The European Defence Agency should grant increased partial access to the summary reports on the proposals in receipt of EU funding which have been or are being implemented, including to the commercial information contained in those reports. [3]

10. The EDA reconsidered its position in light of the Ombudsman's proposal and granted

the complainant almost unrestricted access to the summary reports on all projects that had received EU funding.

11. The complainant was given the opportunity to provide comments to the Ombudsman on the proposed solution and the EDA's reply to it, but did not do so.

The Ombudsman's assessment after the proposal for a solution

12. The Ombudsman considers that the EDA has followed her proposal for a solution by giving the complainant almost unrestricted access to the documents indicated in her proposal.

13. The Ombudsman welcomes the EDA's positive response to her solution and considers that the complaint has been resolved.
Conclusion
Based on the inquiry, the Ombudsman closes this case with the following conclusion:

The European Defence Agency has settled the complaint by granting wide partial access to the requested documents.

The complainant and the European Defence Agency will be informed of this decision.

Emily O'Reilly

European Ombudsman

Strasbourg, 23/03/2020

[1] Under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents:
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001R1049&from=EN .

[2] In accordance with Article 4(1)(b) and 4(2), first indent, of Regulation 1049/2001.

[3] The full text of the Ombudsman's proposal for a solution is available at:
https://www.ombudsman.europa.eu/solution/125984 .