Evropski varuh človekovih pravic

Odločba v zadevi 1956/2017/THH o zavrnitvi Evropskega parlamenta, da pritožniku odobri dostop do imen poslancev, ki so člani dveh evropskih političnih strank

Odločba
Primer 1956/2017/THH - **Preiskava uvedena dne** 13/03/2018 - **Odločba z dne** 13/03/2018 - **Zadevna institucija ali organ** Evropski parlament (Dosežena rešitev) |

Zadeva se nanaša na zavrnitev Evropskega parlamenta, da javnosti odobri dostop do seznama poslancev, včlanjenih v dve evropski politični stranki v določenih proračunskih letih. Dokumenti, ki jih je Evropski parlament predložil, so vsebovali le navedbo evropske politične stranke, države in javnega mandata zadevnih posameznikov. S seznamov so bila izbrisana vsa imena poslancev.

Varuhinja človekovih pravic je ugotovila, da je rešitev mogoče najti, zato so zahtevani dokumenti bili predloženi pritožniku.

S tem se je preiskava zaključila.

Background to the complaint

1. On 27 April 2017, the complainant submitted a request to the European Parliament for public access to the lists of members affiliated to the Movement for a Europe of Nations and Liberties (MENL) for the financial years 2015 and 2016, and to the Alliance for Direct Democracy in Europe (ADDE) for the financial years 2015, 2016 and 2017.

2. MENL and ADDE are “European political parties”, that is, parties composed of national parties and individuals as members. Since 2004, European political parties have been able to receive annual funding from the European Parliament [1] . Both MENL and ADDE receive such funding [2] .

3. On 4 May 2017, the Parliament provided the complainant with three lists: two lists with the Members of the European Parliament (MEPs), the Members of National Parliaments (MPs), the Members of Regional Parliaments (MRPs) and the Members of Regional Assemblies (MRAs) which are affiliated to European political parties for the financial years 2015 [3] and 2016 [4] ;

and one list with affiliations of MPs, MRPs and MRAs (but not MEPs) to European political parties for the financial year 2017 [5] . However, the names of the members had been deleted from the list. Only the European political party, the country and the public mandate (ie “MEP”, “MP”, “MRP”, or “MRA”) were listed.

4. On 18 May 2017, the complainant wrote to the Parliament, requesting that the names be disclosed. The complainant argued that the information was necessary for his scientific research project on the financing of European political parties.

5. On 23 June 2017, the Parliament responded that the complainant had failed to demonstrate the necessity of the names - which constituted personal data - being disclosed to him.

6. On 14 July 2017, the complainant submitted a request for review (a “confirmatory application”), requesting that the names be released. On 30 August 2017, the Parliament responded, confirming its earlier position and refusing to disclose the names.

7. Dissatisfied with this reply, the complainant turned to the Ombudsman on 6 November 2017.

The inquiry

8. The Ombudsman opened an inquiry into the complaint that the Parliament had failed to grant to the complainant access to the documents he had requested.

9. In the course of the inquiry, the Ombudsman received comments from the Parliament and the complainant, and met with representatives of the Parliament to discuss the complaint

Failure to grant public access to the names of members of parliaments affiliated to two European political parties

Arguments presented to the Ombudsman

10. In refusing to provide the complainant with the names he requested, the Parliament relied on the exception in Article 4(1)(b) of Regulation 1049/2001 which protects personal data of individuals.

11. Justifying his request for the information concerning individual parliamentarians, the complainant put forward arguments as to why it was necessary for him to receive the relevant information, some of which had not been included in his initial request to the Parliament, nor in his request for review.

The Ombudsman's assessment

12. The Ombudsman notes that, according to the rules on public access to documents, the protection of personal data constitutes a justification for refusing to grant public access to such information contained within a document. [6] The rules on protection of personal data [7] make clear that when an individual seeks to obtain access to documents which include the personal data of identified or identifiable natural persons, the transfer of that personal data is allowed if a) the recipient establishes that disclosure of the data is necessary, and b) there is no reason to assume the data subject's legitimate interests will be prejudiced [8] .

13. In this case, whilst the complainant did provide information setting out the necessity in him receiving the relevant personal data, some of this information was provided for the first time during the course of the Ombudsman's inquiry.

Solution

The Ombudsman's proposal

14. With a view to achieving an outcome which was satisfactory to both parties, the Ombudsman explored the possibility of a fresh review of the case, taking into account all the arguments concerning the necessity to release the personal data. It became clear that the simplest way of achieving this would be for the complainant to submit a new request, including all the arguments from the outset.

15. The complainant agreed to submit a new request and did so on 30 January 2018.

16. On 20 February 2018, the Parliament granted the complainant's request and provided him with full, unredacted versions of the relevant lists.

Conclusion

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

A solution has been achieved, resulting in full disclosure of the requested documents.

The complainant and the Parliament will be informed of this decision **.**

Emily O'Reilly

European Ombudsman

Strasbourg, 13/03/2018

[1] In accordance with Regulation 2004/2003: : http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1510239926682&uri=CELEX:02003R2004-20071227 [Povezava]

[2] http://www.europarl.europa.eu/pdf/grants/Grant_amounts_parties_01_2017.pdf [Povezava]

[3] http://www.europarl.europa.eu/RegData/publications/divers/2014/0008/EP-PE_DV%282014%290008_XL.pdf [Povezava]

[4] http://www.europarl.europa.eu/RegData/publications/divers/2015/0009/EP-PE_DV%282015%290009_XL.pdf [Povezava]

[5] http://www.europarl.europa.eu/RegData/publications/divers/2016/0008/EP-PE_DV%282016%290008_XL.pdf [Povezava]

[6] See Article 4(1)(b) of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, available at http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1519736505157&uri=CELEX:32001R1049 [Povezava]

[7] See Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community insitutions and bodies and on the free movement of such data, available at http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1519735107207&uri=CELEX:32001R0045 [Povezava]

[8] See Article 8 of Regulation 45/2001.