



European Ombudsman

Emily O'Reilly
European Ombudsman

Mr Dimitris Avramopoulos
Member of the European Commission
European Commission
1049 BRUSSELS
BELGIQUE

Strasbourg, 21/01/2015

My decision in case 1148/2013/TN against the European Police Office (Europol)

Dear Mr Avramopoulos,

Thank you for contacting me on the above matter through your letter of 12 December 2014.

I would like to take the opportunity to clarify first of all that I made no recommendations to the Commission in the decision closing the case. In fact, I closed the inquiry without reaching any conclusion on the substance of the case, given that the US authorities refused Europol's request to let me inspect the document to which the complainant had not been given access. I could therefore not determine whether Europol had correctly applied its rules on public access to documents in respect of the document concerned.

In your letter, you stress that the need to obtain the consent of the 'data originator' before any classified information is disseminated is one of the most important principles embedded in the security arrangements of all EU institutions and bodies.

That point is relevant to the question of whether access can be granted to such documents under the EU's rules on public access to documents. As I am sure you will appreciate, ensuring these rules are implemented correctly is part of my mandate as European Ombudsman.

What I am so deeply concerned about, however, is the fact that I have been prevented from properly carrying out my inquiry in the present case, by inspecting the document concerned, because of a provision in the "technical modalities" under the TFTP Agreement, negotiated and agreed upon by the Commission and the US authorities. My concern is thus about my being prevented from exercising my power of inspection to ensure democratic oversight.

Your letter says nothing about this matter. You say that the "technical modalities" merely relate to the technical implementation of the TFTP



Agreement. However, it remains the case that, because of the "technical modalities", I was prevented from exercising my statutory, democratic role as Ombudsman.

It is also important to recall that my power of inspection does not mean that the documents my services inspect are disclosed to third parties. On the contrary, such inspections are carried out on the basis that no access to any third party will be granted by the Ombudsman to documents or information contained therein that the institution declares to be confidential.

I therefore trust that the Commission will support me in my determination to use the powers of inquiry that have been granted to me in order properly to carry out my inquiries and to fulfil my role in the democratic scrutiny of the EU.

Yours sincerely,

Emily O'Reilly