



European Ombudsman

Directorate of Inquiries

Ms [REDACTED]
Head of Unit
Legal Affairs Unit
European Committee of the Regions

[REDACTED]
[REDACTED]

Strasbourg, 10/05/2022

Complaint 795/2022/OAM

Subject of case: The European Committee of the Regions' refusal to give full public access to a former member's expenses and itineraries [Your reference numbers: 2020/A1661, 2021/A117 and 2021/A1078]

Dear [REDACTED],

The Ombudsman has received a complaint against the European Committee of the Regions (CoR) concerning its refusal to grant full public access to documents concerning travel expenses and itineraries of a former member.

In April 2021, the complainant made several requests for access to documents to the CoR concerning events attended by a former member. He was interested in particular in the itineraries and corresponding payments (travel expenses and allowances) received by the former member. The complainant suspected that the former member had claimed expenses from the CoR and from a local Council in [REDACTED] home country for overlapping journeys or hours and wanted to verify if this was the case. Since the documents in question contained personal data, he put forward different objectives in the public interest to justify the need to have access to that data, namely, to ensure the correct spending of public funds and to avoid fraud, as well as the transparency of Union institutions and bodies.

The CoR initially refused access. At confirmatory stage, the CoR considered that the necessity put forward by the complainant did not justify the full disclosure of the documents. It however gave partial access to a document showing for each of the events in question whether the former member was reimbursed the travel expenses and was paid flat-rate travel and/or meeting allowances. The CoR did not release the actual amounts paid.

Based on the information disclosed, in August 2021, the complainant made a new request. On this occasion he provided the CoR with claims for reimbursement submitted by the former member to national authorities for events happening at national level. He asked for access to reimbursement



claims and itineraries for ten CoR events happening on the same dates as the national ones.

The CoR referred to its previous confirmatory decision and maintained its assessment. It did not agree to disclose the reimbursement claims and itineraries for the ten events.

The complainant has asked the Ombudsman:

1. to assess whether the CoR was correct in denying full access to the requested documents and in refusing to treat his second access request;
2. to give an opinion on the current legal framework regarding the balancing between the right of access to documents and the protection of personal data.

We have decided to open an inquiry into the first aspect of the complaint.

Our preliminary view is that, as long as there is no investigation by a public authority (at EU or national level) into the matters put forward by the complainant, his objective is legitimate. He wants to verify whether the former CoR member has received double payments and, by doing this, to ensure that public funds were correctly used. The only way for him to do this would be to have access to the itineraries and claims submitted to the CoR. Therefore the complainant's necessity to receive access to the personal data is valid. As for the legitimate interests of the data subject, the itineraries and reimbursement claims cover trips in the context of official duties of a public representative. It is not obvious what harm to a legitimate interest could be caused by disclosure. Finally, in the second request, the complainant provided the CoR with the evidence to substantiate the arguments presented in his first access request. It seems the CoR refused to take this evidence into account.

We have concluded that it would be useful to receive a written reply from the CoR to this complaint. We consider that the CoR should reassess the arguments and evidence put forward by the complainant with a view to providing greater disclosure. If the matter has been referred to the European Anti-Fraud Office, or to any national authority, please let us know.

We would be grateful to receive the CoR's reply by 2 June 2022. Please note that we are likely to send your reply and related enclosures to the complainant for comments.¹

As regard the second aspect of the complaint, we have informed the complainant that it is not the Ombudsman's role to give an opinion on the current legal framework. Rather the Ombudsman applies that legal framework

¹ If you wish to submit documents or information that you consider to be confidential, and which should not be disclosed to the complainant, please mark them 'Confidential'. Encrypted emails can be sent to our dedicated mailbox eo-secem@ombudsman.europa.eu. Please contact eo-secem@ombudsman.europa.eu beforehand. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.



in her work and is often called on to balance the right of access to documents and the protection of personal data, as she expects to do in this case.

The inquiries officer responsible for the case, [REDACTED], can be reached at the following telephone number: [REDACTED] or at [REDACTED]

Yours sincerely,

Rosita Hickey
Director of Inquiries

Enclosure: Complaint 795/2022/OAM