



**European Committee
of the Regions**

The President

Brussels, *date of the official registration*
PCab/RLC/SoB/ssch D 899/2023

Ms Emily O'Reilly
European Ombudsman

Ombudsman's Complaint 795/2022/OAM

Dear Ms O'Reilly,

I refer to your letter of 5 May 2023 regarding the above-mentioned complaint. That letter followed the acceptance by the European Committee of the Regions (hereinafter, "the CoR") of your "proposal for a solution" to overcome its refusal to grant full access to evidence related to the travel expenses incurred by and the flat-rate travel and meeting allowances paid to its former member [REDACTED] [REDACTED]¹. It seems that you have decided to review the agreement reached with the CoR (the "proposal for a solution") on the grounds that the applicant considers that he still needs to be granted access to the flight tickets or "at least the destinations, dates and times of the flights at issue (...) to see whether reimbursement claims presented to the national authorities at issue overlap with those presented to the [CoR]".

Thus, you now suggest that the CoR "discloses the flight tickets at issue (redacted if they should contain irrelevant personal data), or at least provides the complainant with the information contained in the respective flight tickets, that is the specific itineraries (dates of the flights, together with the departure and arrival airports and hours respectively)."

As you remember, the CoR previously reconsidered its original position. That position was based in particular on the conviction that the information already provided to the applicant went beyond the requirements established by the General Court of the European Union (especially in its *Psara* case²) and by certain Ombudsman's decisions³.

¹ Dated 24 March 2023, CoR reference D/397/2023

² Judgment of the General Court of 25 September 2018 in joint cases T-639/15, T-666/15 and T-94/16, *Psara and others v Parliament*, paragraphs 69, 72 and especially 77. See also the judgment of the General Court of 15 July 2015 in case T-115/13, *Dennekamp v Parliament*, paragraphs 59, 77, 117.

³ Decision in case 221/2021/DL on the European Commission's refusal to give public access to documents concerning travel expenses related to an official trip by a staff member of the European Anti-Fraud Office (OLAF). See especially the last paragraph of its point No 6 and point No 7. See also Decision in case 143/2019/TE on the European Parliament's refusal to give access to documents showing the expenses and allowances received by Irish members of the European Parliament.

After a thorough exchange of legal analyses and discussions on the merits of the applicant's request, the CoR acknowledged, nevertheless, your assessment that the applicant may indeed have met the three cumulative conditions provided for in Article 9(1)(b) of Regulation (EU) No 2018/1725 for the requested documents to be disclosed. Consequently, you sent to the CoR a "proposal for a solution" consisting of transmitting to the applicant the pages entitled "Statement of travel and subsistence expenses" and "Claim for reimbursement of travel expenses and travel and meeting allowances" and redacting all non-relevant personal data for each of the events concerned. The CoR endorsed the assessment you made in reaching this decision regarding the combined interpretation and weighing of Article 4(1)(b) of Regulation (EC) No 1049/2001 and Article 9(1)(b) of Regulation (EU) 2018/1725 and accepted that the facts in this case may indeed differ from the circumstances of the Psara case, especially since the applicant had provided probatory evidence from the Irish local authorities showing potential overlapping attendance at some events in the reimbursement claims of [REDACTED]

In your letter of 5 May 2023, you reconsider the "proposal for a solution" you submitted to the CoR, and which it accepted, and you now request it to disclose further documents. One could consider that this new request and especially the disclosure of all the other personal data contained therein might undermine the principle of protection of personal data and therefore be considered not proportionate and necessary for the public interest.

However, in order to fulfil your request to the greatest extent, and following your own suggestion, the CoR is prepared to draw up a specific table containing the departure and arrival times declared by [REDACTED] in [REDACTED] request for reimbursement for each of the events concerned. Indeed, this table would respect as much as possible the combined interpretation weighing Article 4(1)(b) of Regulation (EC) No 1049/2001 and Article 9(1)(b) of Regulation (EU) 2018/1725. The table will add a statement explaining that it is not possible for the CoR to verify if [REDACTED] took the declared flights back to Dublin, since the CoR only has at its disposal the reimbursement claims introduced by [REDACTED]. In fact, although members are required to declare to the CoR any changes to their return flights (if any), it became apparent after the internal investigation that the CoR had not been regularly informed of possible changes to flights, and that [REDACTED] could not remember whether any changes took place in this instance. In any case, the enquiry also showed that most of the flights were "flexi fare" tariff tickets, which would have allowed [REDACTED] to modify [REDACTED] schedule without financially impacting the CoR.

Pursuant to Article 15(3) of Regulation 2018/1725, the CoR will inform [REDACTED] that [REDACTED] personal data will be processed for a purpose other than the one for which they were collected.

Yours sincerely,

[REDACTED]

Vasco Alves Cordeiro

Annex: Table containing destinations, dates and departure and arrival times of flights related to the events concerned.