Reply by the European Commission to the European Ombudsman's proposal for a solution — The European Commission's position on a request for public access to the minutes of meetings of the EU Regional Task Force Greece
- Case ref. 2237/2024/5

I. BACKGROUND

In September and October 2021, an EU citizen (hereafter 'the applicant') submitted two requests for public access to documents, concerning meetings of the EU Regional Task Force (EURTF) in Italy and Greece. The requests were registered with references GESTDEM 2021/5824 and GESTDEM 2021/5813, respectively.

As regards the request with reference GESTDEM 2021/5813, the applicant asked for public access to 'minutes from the EU Regional Task Force meetings in Greece from June 2015 until December 2016; from May 2018 until December 2018; and from April 2020 until September 2021'.

In its reply of 20 December 2021[1], the Directorate-General for Migration and Home affairs (DG HOME) of the European Commission identified and refused access to 34 documents based on the exceptions laid down in the first indent (protection of public security), second indent (protection of defence and military matters) and third indent (protection of international relations) of Article 4(1)(a) of Regulation (EC) No 1049/2001[2]. It took into account the position of the third parties that were present during the meetings, consulted in accordance with Article 4(4) of the same Regulation.

On 3 January 2022, the applicant submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001.

In its confirmatory decision of 14 February 2023[3], the Commission granted partial access to 27 documents (documents 1-28[4]) and protected the seven remaining documents (documents 29-35) from public access. The redacted parts of the documents were covered by the first indent (protection of public security) and the third indent (protection of international relations) of Article 4(1)(a) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

II. THE COMPLAINT TO THE EUROPEAN OMBUDSMAN AND THE OMBUDSMAN'S INQUIRY

On 19 December 2024, the European Ombudsman informed the Commission that it had received a complaint against the confirmatory decision of 14 February 2023. The complaint was lodged by another individual ('the complainant') on behalf of the applicant.

The Ombudsman opened an inquiry into the Commission's refusal to give (wider) public access to the minutes of meetings of the EURTF Greece. As the complainant did not challenge the redaction of personal data, this was not part of the Ombudsman's inquiry.

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[1] Reference Ares(2021)7868585.
[2] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, pp. 43–48.
[3] Reference Ares(2023)1077519.
[4] As explained in the confirmatory decision of 14 February 2023, no 'document 5' was listed due to a clerical mistake in the initial reply of 20 December 2021.

During the inquiry, the Ombudsman inspected the documents concerned, as well as the replies to the the third-party consultations conducted by the Commission in relation to the possible disclosure of the documents requested. Furthermore, on 12 June 2025, the Ombudsman inquiry team met with Commission representatives to clarify several questions related to the documents at stake.

III. THE OMBUDSMAN'S PROPOSAL FOR A SOLUTION

On 13 April 2026, the Ombudsman provided the Commission with its assessment of the case. In the Ombudsman's opinion, the documents requested can be divided into three categories, based on their dates and the extent of access granted:

- 'Category I documents', covering documents 1-20 (meetings from 2016), to which the Commission had granted wide partial access.
- 'Category II documents', covering documents 21-28 (meetings from 2018), to which the Commission had granted partial access.
- 'Category III documents', covering documents 29-35 (meetings from 2020 and 2021), which had been fully protected from public access.

The Ombudsman considered that the Commission granted wide partial access to documents under Category I and that the redactions performed in the documents concerned do not suggest a manifest error of assessment on the Commission's part.

As regards Categories II and III, the Ombudsman argues that the Commission exceeded the time limits provided for under Regulation (EC) No 1049/2001. In the Ombudsman's view, the Commission did not properly factor the 17 months delay into the assessment of the documents and failed to address how the passage of time and changing circumstances affected the sensitivity of the documents.

For Category III documents, which had become two to three years old by the time of the confirmatory decision, the Commission still treated them as sensitive ongoing operations without re-consulting the third party that had most opposed their disclosure. Similarly, in the Ombudsman's view, redactions in the Category II documents covered outdated, non-actionable information related to facilities that no longer exist, none of which was sufficiently addressed in the decision.

Therefore, the Ombudsman considers that the Commission did not adequately take into account the passage of time and the change in circumstances when handling the applicant's request as regards Category II and III documents. The Ombudsman outlines that three years have passed since the Commission adopted its confirmatory decision in this case.

The Ombudsman proposes that 'the Commission reassess documents 21-35, taking into account the passage of time and possible changes in circumstances, with a view to granting wider (partial) access. If the Commission maintains redactions, it should explain why certain parts of the documents still need to be withheld at present'.

IV. THE COMMISSION'S REPLY TO THE OMBUDSMAN'S PROPOSAL FOR A SOLUTION

The Commission welcomes the Ombudsman's conclusion that there was no manifest error of assessment on the part of the Commission regarding most of the documents subject to the

application with reference GESTDEM 2021/5813. This acknowledgement underscores that the Commission's approach to granting wide partial access was balanced and proportionate.

With the two requests lodged by the applicant combined (GESTDEM 2021/5813 and GESTDEM 2021/5824), the Commission partially disclosed 105 EURTF meeting reports after a thorough assessment and consultations with the third parties and Member States concerned. This reflects the Commission's commitment to transparency in EU migration policy, while respecting the need to protect the integrity of sensitive discussions and ensure effective cooperation with partners over time.

The Commission has carefully considered the Ombudsman's proposal to reassess documents 21-35 in light of the passage of time and possible changes in circumstances, and respectfully submits the following comments.

a) Procedural considerations

The Commission notes that the complaint was lodged by a third party – a different person from the one who submitted the application under Regulation (EC) No 1049/2001. As such, the Commission was not afforded the opportunity to engage with or address the specific concerns of the complainant during the handling of the request. This procedural limitation is significant, as the complainant's arguments were never part of the original administrative process and could therefore not be considered in the Commission's initial or confirmatory assessments.

Moreover, the complaint to the Ombudsman was lodged in December 2024 – almost two years after the confirmatory decision was communicated to the original applicant. Combined with the subsequent opening of the Ombudsman inquiry and the present proposal, more than three years have now elapsed since the Commission adopted its final position. Given the time passed, the circumstances and perceptions regarding the sensitivity of the documents may have evolved. Any such changes would be more appropriately addressed in the framework of a new request, rather than through the reassessment of a decision that was based on the facts and legal context applicable at the time it was made.

In light of the above, and in the interest of procedural fairness and administrative efficiency, it remains open for the complainant to submit an initial application under Regulation (EC) No 1049/2001. This would ensure that he benefits from all procedural guarantees provided by the Regulation, including the right to a confirmatory application. It would also allow the Commission to examine his arguments in detail, take full account of the current circumstances, and, if needed, consult the third parties concerned.

b) Substantive considerations

On a substantive level, the Commission maintains its view that the confirmatory decision of 14 February 2023 granted the widest possible access to the documents concerned at the time.

The Commission consulted the Greek authorities twice on the disclosure of the minutes of the meetings in question. In reply to these consultations, the Greek authorities clearly explained the reasons why they oppose disclosure, invoking the protection of their public security and international relations in accordance with the first and third indents of Article 4(1)(a) of Regulation (EC) No 1049/2001. It should be noted that there is no obligation for Member States to share information in the framework of the EURTF. Any breach of confidence in this collaboration could discourage full and open participation in future exchanges, thereby

jeopardising the Commission's ability to respond effectively to migration challenges in cooperation with its partners.

Moreover, public disclosure of these documents would create a chilling effect on current and future discussions, as Greek authorities and other partners might hesitate to share critical information if they fear it could be made public against their opinion. This would undermine the trust that underpins effective cooperation in migration management – a trust that remains as vital today as it was at the time of the applicant's request.

In its proposal, the Ombudsman does not dispute that the content of the documents relates to interests protected by absolute exceptions under Regulation (EC) No 1049/2001 – namely, public security and international relations, as provided for in the first and third indents of Article 4 of that Regulation. Instead, the Ombudsman's argument focuses on the passage of time and the alleged outdatedness of parts of the information contained in the documents.

In this regard, the Commission took the passage of time into account in its assessment, as demonstrated by its decision to grant partial access to 28 of the 34 documents initially protected in full. The Commission notes, however, that the mere passage of time does not automatically render sensitive information obsolete or unworthy of protection, particularly where public security and international relations are concerned.

As explained during the meeting with the Ombudsman's inquiry team on 12 June 2025, the practices and operational modalities of deployments, as well as the *modi operandi* for addressing migration challenges remained similar despite the passage of time. The same applies for the need to maintain trust between the parties involved. While certain factual elements contained in the documents may have evolved over time, their disclosure would nevertheless reveal operational vulnerabilities, priorities, response capacities and coordination arrangements that remain relevant for the management of external borders. The sensitivity of such information therefore cannot be assessed solely by reference to whether individual factual circumstances have subsequently changed.

During that meeting, the Commission representatives provided specific examples of information in the documents whose disclosure would pose a concrete, non-hypothetical risk to public security and international relations.

The Ombudsman's proposal suggests that the Commission failed to re-consult third parties before adopting its confirmatory decision. However, as explained above, the Commission consulted the Greek authorities on the possible disclosure both at the initial and confirmatory stages. The opposition of the Greek authorities was unequivocal and based on concerns that had not diminished over time. A renewed consultation with other partners would not have changed this conclusion, nor would it have changed the Commission's obligation to protect the interests at stake.

Consequently, the Commission took into account the opinions of the third parties consulted on the applicant's request and, based on its own assessment, protected parts of documents 21-28 and documents 29-35 in full, pursuant to the first indent (protection of public security) and the third indent (protection of international relations) of Article 4(1)(a) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

V. CONCLUSIONS

The Commission considers that its confirmatory decision, which has become final in the absence of any legal challenge before the Union courts, was legally and factually correct in light of the circumstances existing at the point in time it was taken.

It is open for the complainant to submit a new initial request for public access to documents to the Commission in accordance with Article 6(1) of Regulation (EC) No 1049/2001. This would enable the European Commission to provide a reply that is fully in line with any new developments that may have arisen since the adoption of the confirmatory decision at stake. It would also help to ensure that the complainant can fully benefit from all procedural guarantees and means of review put in place by Regulation (EC) No 1049/2001, including the right to a confirmatory application.