

How the European Commission dealt with a request for public access to documents concerning its online directory of EU staff (Whoiswho)

Case opened

Case 1647/2023/NH - **Opened on** 04/09/2023 - **Decision on** 29/10/2024 - **Institution concerned** European Commission (Solution achieved) |

Dear Mr X,

The Ombudsman has received a complaint against the European Commission. The complaint concerns the Commission's decision taken at confirmatory stage on the complainant's request for public access to documents registered under EASE 2023/2252.

I understand that the Commission identified a total of seven documents in its confirmatory decision. It granted full access to one document, partial access to five documents and refused access in full to one document. In doing so, the Commission relied on the exceptions set out in Article 4 of Regulation (EC) 1049/2001, in particular Article 4(1)(b) (protection of privacy and integrity) and the second subparagraph of Article 4(3) (protection of the decision-making process).

We have decided to open an inquiry into the complaint against the Commission's decision to refuse access (fully or partially) to the requested documents under Regulation 1049/2001.

Regulation 1049/2001 states that applications for access should be handled promptly. It is in line with this principle that the Ombudsman also seeks to deal with cases such as this as quickly as possible.

As a first step, we consider it necessary to review the documents at issue in the complainant's request. I would be grateful if the Commission could provide the Ombudsman's inquiry team with copies of the following documents, in full (unredacted):

- Internal communication between the Secretariat-General and the Publications Office of the European Union of 30 March 2023, reference Ares(2023)3833726 (hereafter 'document 2').
- Internal communication in the Secretariat-General of 7 March 2023, reference Ares(2023)3838050 (hereafter 'document 3');
- Email from the Secretariat-General to the European Parliament and Council of 14 March 2023, reference Ares(2023)3829858 (hereafter 'document 4');



- Reply from the Council of 17 March 2023, reference Ares(2023)3829910 (hereafter ‘document 5’);
- Reply from the European Parliament of 16 March 2023, reference Ares(2023)3829946 (hereafter ‘document 6’);
- Email to the President’s Cabinet of 21 March 2023, reference Ares(2023)3829965 (hereafter ‘document 7’).

The documents should be sent to the Ombudsman preferably in electronic format through encrypted e-mail, [1] **by 11 September 2023** .

The documents subject to the public access request will be treated confidentially, along with any other material the Commission chooses to share with us that it marks confidential. Documents of this kind will be handled and stored in line with this confidential status and will be deleted from the Ombudsman’s files shortly after the inquiry has ended.

The Commission’s position has been set out in its confirmatory decision dated 27 July 2023. Should the Commission wish to provide additional views on the complaint, to be taken into account by the European Ombudsman during this inquiry, it is invited to provide them within fifteen working days from the receipt of this letter, that is, **by 25 September 2023** . Specifically, the complainant argues that there are other documents falling within the scope of his request and that the Commission failed to identify them (in particular “ *Documents to show any evidence of undue pressure on staff, or requests for staff wanting to have their names removed* ”). It would therefore be helpful if the Commission could explain how the seven documents at issue were identified and, if other additional documents existed, why they were not included in the list.

Please find attached a copy of the complaint.

Please note that the second issue raised by the complainant, that is the Commission’s decision to change its practice as regards publication of the names of non-managerial staff on the EU Whoiswho website, is for now inadmissible.

The inquiries officer responsible for the case is Mr Nicholas Hernanz.

Yours sincerely,

Rosita Hickey Director of Inquiries

Strasbourg, 04/09/2023

[1] Encrypted emails can be sent to our dedicated mailbox.