

Decision on the European Commission's decision to remove the contact details of staff below head of unit level from the EU's online directory of EU staff (Whoiswho) website (case 1983/2023/ET)

Decision

Case 1983/2023/ET - Opened on 20/11/2023 - Decision on 06/09/2024 - Institution concerned European Commission (No further inquiries justified) |

The case concerned the European Commission's decision to remove the work contact details of all their staff below head of unit level from the public online directory 'Whoiswho'. The complainant took the view that this decision undermined transparency.

The Ombudsman found deficiencies in how the Commission took a decision which had such obvious consequences for how the public can interact with it. To address this she made a solution proposal that the Commission conduct a new decision-making process, taking account of both the need to protect staff from undue influence and the need for transparency. The Commission did not accept the solution proposal.

The Ombudsman closed the case, considering that no further inquiries were justified but expressed regret with how the Commission had taken the decision.

Background to the complaint

1. The complainant, an umbrella organisation representing civil society organisations across Europe, raised concerns about a European Commission decision. The Commission, in April 2023, removed the work contact details of all staff below head of unit level from the public online directory 'Whoiswho' [1]. In particular, the complainant argued that the decision would undermine transparency and make it more difficult for the public to interact with the Commission.

2. The Commission argued that the decision aimed to reflect the practice of the other two main EU institutions (the Council of the EU and European Parliament), which publish only the names and contact details of staff occupying management functions.

3. Dissatisfied with the Commission's reply, the complainant turned to the Ombudsman.



The inquiry

4. The Ombudsman opened an inquiry into how the Commission took the decision.
5. In the course of the inquiry, the Ombudsman made a proposal for a solution the details of which are set out below.

Arguments made by the complainant and the European Commission

6. The complainant argued that, by no longer publishing the contact details of all staff, the Commission had made it more difficult for the public to contact the Commission. This undermined the transparency of the institution and risked creating unequal access, since only interest representatives with considerable financial and staff resources would have the means to access and seek to influence the Commission at all levels of the organisation. In the absence of publicly-available information, the public and smaller civil society organisations would not have the resources to access all Commission staff.

7. In its reply to the Ombudsman, the Commission argued that, while the original decision to publish all contact details was taken to promote transparency, it also has the duty to protect its staff. It claimed that Commission staff members had become increasingly subject to undue pressure by outside interests. The Commission added that the responsibility of representing the Commission vis-à-vis external stakeholders lies with staff occupying management positions in the Commission, and that this is not the role of non-management staff.

8. In response to the evolving situation, senior management of the Commission and the Commission President's personal office (cabinet) decided to review the approach to the publication of contact details on the Whoiswho directory. This review took into account the function and tasks of the staff members, and the need for the Commission to protect its staff from undue influence. The review also took into account the fact that several Commission staff members had submitted requests to remove their names from the EU Whoiswho directory, as well as the rights of staff in relation to their personal data, in accordance with the data protection rules laid down in Regulation (EU) 2018/1725.

9. The Commission said that it was aligning its practices with those of the European Parliament and the Council of the EU, which also do not publish the names of non-management staff. It stated that the Publications Office of the EU was seeking to harmonise practices among the EU institutions and agencies. The Commission added that other international organisations do not publish the contact details of staff members.

The Ombudsman's proposal for a solution



10. The Ombudsman took the view that, when taking the decision to revisit its current policy, the Commission did not:

- conduct thorough internal or external consultations to gather feedback on the different interests at stake;
- carefully assess the impact of the decision, including on the equality of access to the Commission;
- identify possible alternative measures (such as removing only names of certain staff members working on sensitive files); or
- carefully balance the different interests at stake (such as transparency, equality of access, data protection and due diligence towards its staff).

The Commission did not present the Ombudsman with evidence of deliberations, prior to adopting the decision.

11. The Ombudsman acknowledged that the Commission has to balance the principle of transparency and open decision making with the duty to protect its staff, including those dealing with sensitive files. However, in light of the deficiencies as outlined above, the Ombudsman made a solution proposal [2] to the Commission that it carry out a new decision-making process that takes into consideration the elements listed above.

12. The Ombudsman emphasised that this solution proposal concerned only the process as such, and not the outcome, that is, the ultimate decision on what information to publish.

The Commission's reply and the Ombudsman's assessment after the proposal for a solution

13. In reply, the Commission maintained its position and refused to review its decision. It reiterated the arguments mentioned above, and stated that, as the circumstances leading to the decision have not changed, it did not intend to revise its approach. It added that a review could create false expectations, since the situation had not changed and the Commission therefore intends to maintain the new approach to the publication of staff details on the Whoiswho directory.

14. The Ombudsman regrets that the Commission did not accept the solution proposal for the following reasons.

15. Decisions taken by the EU administration should be evidence-based. While the Commission claimed there had been multiple cases of external actors seeking to exert undue influence on its staff, it failed to provide any evidence to support this claim when asked to do so by the



Ombudsman.

16. By way of reply to the Ombudsman's solution proposal, the Commission did not explain to what extent it had considered possible alternative measures (such as removing only names of certain staff members working on sensitive files). This would have enabled the Commission to show that it had pursued a proportionate approach in this case.

17. In taking decisions with wide-ranging consequences, such as the decision in question, the Commission should also consult appropriately. In this case, there seems to have been no consultation with the individuals and organisations particularly impacted by it, namely organisations seeking to interact with the Commission.

18. While the Ombudsman welcomes the fact the Commission consulted the Parliament and Council, this cannot replace the Commission's own assessment as to the implications of it removing the names and balancing the different interests at stake. Similarly, the concern raised by the Publication Office about a lack of harmonisation of the data made public across the institutions cannot in itself justify the Commission simply adopting the practice of the Parliament and Council.

19. Given the concrete consequences of its decision, the Commission should also have been more proactive in communicating about it and providing more comprehensive explanations as to why it was taken.

20. However, as it is clear that the Commission does not intend to redo its decision-making procedure, the Ombudsman considers that no further inquiries are justified. She trusts that the Commission will take account of her assessment in this case in future decision-making processes with such a wide-ranging impact.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion:

No further inquiries are justified.

The complainant and the European Commission will be informed of this decision .

Emily O'Reilly European Ombudsman

Strasbourg, 06/09/2024



[1] <https://op.europa.eu/en/web/who-is-who> [Link]

[2] <https://www.ombudsman.europa.eu/solution/192083> [Link]