

## **Decision on the European Commission's handling of a request for public access to documents related to the Commission's practice of publishing names of EU officials on the EU Whoiswho website (case 1647/2023/NH)**

Decision

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

The case concerned a request for public access to documents related to the decision taken by the European Commission, in April 2023, to remove the names and contact details of its staff members (below the grade of head of unit) from the online directory known as 'Whoiswho'. The complainant requested access to the decision itself, as well as any supporting documents. The Commission identified seven documents, granted partial access to six of them and refused access to one document in full. The complainant challenged how the Commission had handled his request.

The Ombudsman inquiry team inspected the documents at issue and held a meeting with the Commission. The Ombudsman took the view that the Commission should grant partial access to the document to which it had refused access in full. She also concluded that the Commission had not conducted a thorough search for documents.

She therefore made a proposal for a solution to the Commission, asking it to reconsider its position with a view to granting the widest possible access to the document at issue and to carry out a new search for documents.

The Commission agreed to grant wide partial access to the document at issue, which the Ombudsman very much welcomed. The Commission also clarified the situation as regards the search for additional documents, allowing the Ombudsman to close the case.

### **Background to the complaint**

1. The European Commission publishes an online directory of its staff members, which includes the organisational chart of its services and the names and contact details of its staff members. The online directory, hosted on the website of the Publications Office of the European Union, is



called “EU Whoiswho”. [1]

2. In April 2023, the Commission decided to limit the amount of personal data made available to the public on the Whoiswho directory to managerial staff (heads of unit and above). In practice, this meant that the Commission removed the names and contact details of lower-level staff members from the Whoiswho website.

3. The complainant, a lobbyist based in Brussels, made a request for public access [2] to documents related to the decision taken by the Commission to remove the names of lower-level staff from the Whoiswho website and to any supporting documents that influenced the decision.

4. In May 2023, the Commission replied to the complainant’s request. It identified two documents as falling within the scope of his request and granted partial access to one document and full access to the other. The Commission also provided some information on the rationale behind the decision to remove names from the Whoiswho website. It said that it had aligned itself with the long-standing practice of other EU institutions, in particular the European Parliament and the Council of the EU, as well as many national administrations. The Commission explained that it has a duty to protect its staff from undue pressure, and must respect data protection rules. The Commission further argued that a number of staff members had requested that their data be removed from the Whoiswho website.

5. The complainant asked the Commission to review its decision (by making a ‘confirmatory application’). He argued that the Commission should have identified additional documents, in particular evidence supporting the Commission’s claim that some staff members were subject to undue pressure and had complained about their data being publically available. He asked that the Commission search again for these documents, along with any other study or impact assessment carried out by the Commission to support this change of practice.

6. The Commission replied to the complainant’s confirmatory application in July 2023. It identified five additional documents as falling within the scope of the complainant’s request, bringing the total number of identified documents to seven. The Commission granted further partial access to one document and wide partial access to five other documents, with redactions of personal data only. It refused access to one document (hereafter: “document 3”) in full, based on an exception set out in the EU legislation on public access to documents concerning the protection of the institution’s decision-making process. [3]

7. Dissatisfied with the Commission’s decision, the complainant turned to the European Ombudsman in August 2023.

## The inquiry

8. The Ombudsman opened an inquiry into the Commission’s handling of the complainant’s request for public access to documents.



9. In the course of the inquiry, the Ombudsman inquiry team inspected the documents at issue and met with representatives of the Commission to discuss how the documents had been identified. [4] The complainant provided his comments on the meeting report.

10. Following a review of the documents, the Ombudsman made a proposal for a solution that the Commission grant the widest possible access to 'document 3' and carry out a more thorough search for documents.

11. In October 2023, the Ombudsman opened another inquiry, based on a separate complaint, concerning the Commission's decision to remove the work contact details of all staff below head of unit level from the Whoiswho website. [5] While the parallel inquiry focused on the decision on substance, this inquiry was about the public access request only.

## The Ombudsman's proposal for a solution

12. Following the inspection of the documents by her inquiry team, and after assessing the additional explanations received during the meeting with Commission representatives, the Ombudsman took the view that the Commission should have granted wider partial access to 'document 3' and should have carried out a more thorough search for documents. [6]

13. The Ombudsman considered that the Commission had not explained in a convincing way how disclosure of 'document 3' would seriously undermine its decision-making. Document 3 contains an internal exchange of e-mails between various services of the Commission's Secretariat-General regarding the publication of the names of staff on the Whoiswho website. The exchange contains opinions and deliberations by managers, in particular on the security concerns regarding the publication of these personal data. The Ombudsman believed that the content of 'document 3' does not appear sensitive throughout; rather it contains a useful insight into the thinking and rationale for the decision ultimately taken.

14. In addition, the Ombudsman considered that the complainant had put forward compelling arguments that the Commission did not identify all documents falling within the scope of his request. During the meeting with the Ombudsman inquiry team in this case, the Commission representatives confirmed that the search for relevant documents had been limited to the Commission's electronic document management system ('ARES') and that no additional steps to identify relevant documents had been taken.

15. The Ombudsman therefore proposed that (i) **the Commission should review its position on the complainant's public access request with a view to granting the widest possible access to 'document 3'**, and (ii) **the Commission should carry out a more thorough search for documents related to the complainant's request for public access** in order to identify all relevant supporting documents that informed the Commission's decision to no longer publish the names of all EU staff members in the Whoiswho website. The Commission should assess whether access could be granted to newly identified documents - if any - in line with Regulation 1049/2001.



**16.** The Commission replied to the Ombudsman's proposal for a solution in July 2024. [7] In its reply, the Commission agreed to grant wide partial access to 'document 3', with limited redactions of personal data of staff members that are not part of the senior management.

**17.** The Commission did not carry out a renewed search for documents, insisting that no further documents exist. It explained that, contrary to the Ombudsman's claim in the proposal for a solution that the Commission's search may have been limited to the 'ARES' electronic document management system, the Commission also - at confirmatory stage - consulted relevant staff members involved in the revision of the Whoiswho policy (identifying five additional documents).

**18.** The Commission emphasised that the complainant had made a request for access to documents, not information. Any additional information, concerning for instance requests from Commission staff members to have their names removed from the Whoiswho website or other concerns expressed orally, would fall outside of the remit of the request and of the definition of 'document' as established in Regulation 1049/2001.

**19.** The complainant welcomed the Ombudsman's proposed solution and the Commission's decision to grant wide public access to 'document 3'. He said that, as shown in the e-mail exchange included in 'document 3', the Whoiswho website is helpful to identify Commission staff members working on a specific file. He expressed concerns that the Commission's decision to remove staff contact details undermined transparency "*just because of a few cases of undue pressure*". Instead, it could have chosen to remove only the names of some specific staff members working on sensitive files, a practice already implemented by the Commission in the past.

## **The Ombudsman's assessment after the proposal for a solution**

**20.** The Ombudsman welcomes the Commission's positive reply to her solution proposal, and the wide partial access that it has now given to 'document 3'.

**21.** She also takes note of the Commission's clarifications as to the search for documents that it carried out at confirmatory stage. The Ombudsman had proposed that the Commission carry out a more thorough search for documents, as she understood from the information provided during the meeting with Commission representatives that the search for documents was limited to the Commission's electronic document management system ('ARES'). In its reply to the solution proposal, the Commission clarified, however, that it had already carried out additional consultations of relevant staff members at confirmatory stage. In light of this, the Ombudsman understands that the search for documents that she proposed has already been carried out.

**22.** As regards whether further documents might exist, or have existed, the Ombudsman has already taken a position on the Commission's failure to provide evidence of undue pressure on



its staff members or of any consultation prior to its decision to remove staff contact details in her parallel inquiry 1983/2023/ET [8] .

## Conclusion

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

**By agreeing to provide wider partial access to ‘document 3’, the Commission has resolved the complaint.**

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

Emily O'Reilly European Ombudsman

Strasbourg, 29/10/2024

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

[2] Under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents:  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001R1049&from=EN> [Link].

[3] Article 4(3), second indent, of Regulation 1049/2001.

[4] The meeting report is available here:  
<https://www.ombudsman.europa.eu/doc/inspection-report/193752> [Link]

[5] Case 1983/2023/ET, available at: <https://www.ombudsman.europa.eu/en/case/en/65044> [Link]. The Ombudsman closed her inquiry into case 1983/2023/ET on 6 September 2024, considering that no further inquiries were justified but expressing regret with how the Commission had taken the decision on such a wide-reaching issue for the transparency of the institution.

[6] The full text of the Ombudsman’s proposal for a solution is available at:  
<https://www.ombudsman.europa.eu/solution/193750> [Link]

[7] The Commission’s reply is available at:  
<https://www.ombudsman.europa.eu/doc/correspondence/193751> [Link]

[8] The closing decision in case 1983/2023/ET is available at:  
<https://www.ombudsman.europa.eu/en/decision/en/192132> [Link]