

## **Decision of the European Ombudsman closing his inquiry into complaint 524/2012/MMN against the European Union Institute for Security Studies**

Decision

**Case 524/2012/MMN - Opened on 03/04/2012 - Decision on 07/06/2013 - Institution concerned** European Union Institute for Security Studies ( Settled by the institution ) |

This case concerns a request made to the European Union Institute for Security Studies ('EUISS') for public access to documents.

The complainant, a platform for NGOs, alleged that the EUISS failed to reply to a request for access to documents concerning its expenditure in 2010 and its annual budget for the years 2010 to 2012. The complainant claimed that the EUISS should either grant access to the documents in question or justify its refusal.

In its initial reply to the Ombudsman, the EUISS indicated that it was not obliged to provide the documents requested. The Ombudsman informed the EUISS that its reply was not satisfactory and invited it to provide an opinion to address adequately the substance of the complaint.

In its opinion, the EUISS informed the Ombudsman that it had re-examined the request and decided to grant access to the documents requested. Moreover, the EUISS provided the Ombudsman with a copy of its rules on access to documents.

In its observations, the complainant informed the Ombudsman that the issue had been resolved.

The Ombudsman concluded that the case had been settled by the EUISS. Furthermore, the Ombudsman commended the EUISS for its constructive approach in the handling of the complaint, as well as for the steps taken to increase transparency in its functioning.

### **The background to the complaint**

1. This case concerns a request for public access to documents relating to the expenditure and annual budget of the European Union Institute for Security Studies ('EUISS').



2. The complainant (which is a platform for NGOs) indicated that it sent several e-mails and made several telephone calls to the EUISS in October and November 2011 in relation to the subject-matter of the present complaint.
3. On 9 January 2012, the complainant sent a request for public access to documents to the EUISS, pursuant to Regulation 1049/2001 [1]. In particular, the complainant requested access to documents concerning (i) the EUISS's expenditure in 2010 and (ii) the annual budget for the years 2010 to 2012.
4. On 3 February 2012, in the absence of any reply from the EUISS, the complainant made a confirmatory application. According to the complainant, the EUISS did not reply to the confirmatory application either.
5. On 8 March 2012, the complainant lodged the present complaint with the Ombudsman.

## **The subject matter of the inquiry**

6. The Ombudsman opened an inquiry into the following allegation and claim:

### **Allegation**

The EUISS failed to reply to a request for access to documents concerning its expenditure in 2010 and its annual budget for the years 2010 to 2012.

### **Claim**

The EUISS should grant access to the documents requested by the complainant or, alternatively, should justify its refusal.

7. The complainant also claimed that the EUISS should publish on its website the documents mentioned above. However, the Ombudsman informed the complainant that this further claim was inadmissible for lack of appropriate prior approaches to the EUISS in relation to this issue.

## **The inquiry**

8. On 3 March 2012, the Ombudsman requested the EUISS to provide an opinion on the above-mentioned allegation and claim.
9. On 11 June 2012, the EUISS sent a reply to the Ombudsman.
10. On 19 June 2012, in view of the contents of that reply, the Ombudsman wrote again to the



EUISS.

11. On 23 July 2012, the EUISS sent its opinion to the Ombudsman, which was forwarded to the complainant for observations.

12. On 3 August 2012, the complainant submitted its observations.

## **The Ombudsman's analysis and conclusions**

### **A. Allegation of failure to reply to a request for access to documents and related claim**

#### **Arguments presented to the Ombudsman**

13. In its initial reply, the EUISS put forward three points. First, it indicated that the complainant had requested access to documents concerning its annual budget and expenditure several times in the past, but it did not state the purpose of these requests.

14. Second, the EUISS acknowledged that its rules concerning the relevant area were not yet in line with those of other EU institutions. It indicated that it may decide to provide third parties with aggregate information concerning its budget on a case-by-case basis. However, its rules do not foresee any obligation to provide detailed information.

15. Third, the EUISS indicated that it would seek the opinion of its Board on this issue at its following meeting of September 2012. It added that it would get back to the Ombudsman after the Board had taken a position.

16. The Ombudsman informed the EUISS that its reply was not satisfactory, and invited it to provide an opinion to address adequately the substance of the complaint.

17. In response, the EUISS informed the Ombudsman that it had decided to re-examine the request for access to documents and that it had also decided to grant access. Moreover, the EUISS provided the Ombudsman with a copy of its rules on access to documents.

18. In its observations, the complainant informed the Ombudsman that the issue had been resolved since it had received a copy of the documents requested. Moreover, the complainant thanked the Ombudsman for his intervention to resolve the underlying problem.

#### **The Ombudsman's assessment**

19. In his letter responding to the EUISS's initial reply, the Ombudsman noted that, pursuant to



Regulation 1049/2001, applicants for access to documents do not need to state the purpose of their request for access. Moreover, according to Regulation 1049/2001, the EU institutions may refuse to grant access to documents only if one or more of the exceptions established by the said regulation is applicable.

**20.** The Ombudsman also drew the EUISS's attention to Article 18 of Council Joint Action on the establishment of a European Union Institute for Security Studies [2] , which provides as follows:

*" Upon a proposal by the Director, the Board shall adopt, by 30 June 2002 rules on public access to the Institute's documents, taking into account the principles and limits laid down in Regulation (EC) No 1049/2001. "*

**21.** Thus, the Ombudsman invited the EUISS to indicate whether it had already adopted such rules and, if so, to provide a copy of these rules.

**22.** It appears from its reply that the EUISS decided to grant access to the documents requested. Moreover, the EUISS also provided the Ombudsman with a copy of its rules on access to documents, which appear to take due account of Regulation 1049/2001.

**23.** Furthermore, the complainant confirmed that it received a copy of the documents requested.

**24.** In view of the foregoing, the Ombudsman concludes that the case has been settled by the EUISS.

**25.** Furthermore, the Ombudsman wishes to commend the EUISS for its constructive approach in the handling of the present complaint, which is the first received by the Ombudsman against the EUISS, as well as for the steps taken to increase transparency in its functioning.

## B. Conclusion

On the basis of his inquiry into this complaint, the Ombudsman closes it with the following conclusion:

**The case has been settled by the EUISS.**

The complainant and the EUISS will be informed of this decision.

P. Nikiforos Diamandouros

Done in Strasbourg on 7 June 2013



[1] 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 2001 L145 p. 43.

[2] Council Joint Action 2001/554/CFSP of 20 July 2001 on the establishment of a European Union Institute for Security Studies, OJ 2001 L 200 p. 1.