

# The European Ombudsman

## Decision of the European Ombudsman closing his inquiry into complaint 111/2008/TS against Europol

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### Related documents

Case: 0111/2008/TS

Summary: [Alleged failure to comply with rules for access to Europol documents](#)

## THE BACKGROUND TO THE COMPLAINT ▲

1. On 6 September 2007, the complainant made an application for access to documents to Europol, concerning certain documents which were referred to in the document entitled 'The Strategy for Europol' (MBS 134.2007 Council document no 12530/07).
2. By letter dated 20 December 2007, Europol replied to the complainant that, on the basis of Articles 4(1)(a) and 4(3) of the Rules for Access to Europol documents(1), access could not be granted to the documents he had requested. Europol did not address the fact that it did not reply to his initial application within the time frame foreseen in its rules for access to documents.
3. On 8 January 2008, the complainant submitted a confirmatory application to Europol. Europol did not reply.
4. In mid-February 2008, an official from Europol telephoned the complainant and apologised for the fact that it had not replied to his confirmatory application within the stipulated time frame.
5. On 8 January 2008, the complainant turned to the Ombudsman.

## THE SUBJECT-MATTER OF THE INQUIRY ▲

6. The Ombudsman opened an inquiry into the following allegations:
  1. Europol failed to comply with its own rules by not answering the complainant's access request and relevant confirmatory application within the stipulated timeframe; and
  2. Europol failed to provide valid and adequate grounds for its decision to reject the complainant's access request.

The complainant claimed that:

1. Europol should review its administrative practice, regarding its handling of (initial and confirmatory) applications for access to documents; and
2. Europol should grant access to the requested documents.

## THE INQUIRY ▲

7. The inquiry was forwarded to the Director of Europol. The opinion provided by Europol on 10 June 2008 was forwarded to the complainant with an invitation to make observations, which he submitted on 18 July 2008.

8. On 29 May 2008, the complainant informed the Ombudsman that, by letter of 8 May 2008, Europol had provided him with the documents and information he had requested.

## **THE OMBUDSMAN'S ANALYSIS AND CONCLUSIONS ▲**

### **A. Allegation that Europol failed to comply with its own rules by not answering to the complainant's access request and relevant confirmatory application within the stipulated timeframe and the related claim that Europol should review its administrative practice regarding its handling of (initial and confirmatory) applications for access to documents ▲**

#### *Comments submitted to the Ombudsman*

9. Europol acknowledged that it had not answered the complainant's initial application within the timeframe stipulated in the rules binding upon it, and apologised for this. Moreover, it stated that it was committed to rectifying, without delay, the administrative shortcomings identified. Furthermore, Europol pointed out that it had reviewed its internal administrative procedures with respect to applications for access to documents and provided assurances that future requests for access would be answered without delay.

10. In his observations, the complainant noted that Europol had, in course of the present inquiry, provided him with the documents he had requested, as well as admitted and regretted the delay in answering his request for access to documents.

#### *The Ombudsman's assessment*

11. Europol's rules on access to documents provide that it shall reply to both initial and confirmatory access applications within 30 working days following registration<sup>(2)</sup>. In the present case, it replied to the complainant's initial application of 6 September 2007 on 20 December 2007, and to his confirmatory application of 8 January 2008 on 8 May 2008.

12. In the course of the present inquiry, Europol has expressly acknowledged that its above-mentioned replies were delayed. It has also expressly apologised to the complainant for these delays. The complainant appears to have accepted this apology. The Ombudsman therefore concludes that Europol has settled this part of the case.

13. The Ombudsman welcomes Europol's assurances that it will take measures to avoid similar shortcomings in the future.

### **B. Allegation that Europol failed to provide valid and adequate grounds for its decision to reject the complainant's access request and the related claim ▲**

#### *Comments submitted to the Ombudsman*

14. In its opinion, Europol explained in some detail that it had dealt with the complainant's access application at a time when it was in the process of adopting and implementing its new access rules. This had caused a number of problems in its handling of the application. Europol also stated that it had, in the course of the Ombudsman's inquiry, granted the complainant access to the documents he had requested.

15. In his observations, the complainant expressed satisfaction with Europol's response.

#### *The Ombudsman's assessment*

16. In light of the above, it appears that Europol has provided the complainant with access to the documents concerned, and that the latter is satisfied with its response. The Ombudsman therefore concludes that Europol has settled this part of the case.

### **C. Conclusions ▲**

Europol has settled the matter and has thereby satisfied the complainant. The Ombudsman therefore closes the case.

The complainant and the Director of Europol will be informed of this decision.

P. Nikiforos DIAMANDOUROS

Done in Strasbourg on 21 November 2008

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[\(1\)](#) *Rules for access to Europol documents*, OJ C 72, 29.3.2007, p. 37.

[\(2\)](#) *Rules for access to Europol documents*, OJ C 72, 29.3.2007, p. 37, Articles 7(1) and 8(1).