

Ms Dorthe Christensen
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European Commission

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Strasbourg, 12/11/2025

Complaint 1080/2024/PVV

Subject: The European Commission's failure to reply to a request for public access to documents concerning its 2023 reassessment of the application of the 'rule of law procedure' in Hungary (your reference: EASE 2024/1717)

Dear Ms Christensen,

We are coming back to you about the European Commission's failure to reply to the complainant's confirmatory application in the above case. The complainant has been waiting for a reply to their confirmatory application for **over 18 months**, that is, since 26 April 2024 (date of the confirmatory application).

The Ombudsman opened an inquiry into the complaint in June 2024 and asked the Commission to reply by 10 July 2024 at the latest. Since then, the Ombudsman's Office has received regular updates from the Commission as regards the state of play of the case. In view of the persisting delay, the Ombudsman requested the documents for inspection in October 2024.

In April 2025, the Commission informed the Ombudsman inquiry team that the complainant requested the production of the documents at issue in this case in an ongoing court case (T-138/23). The Commission said that it is considering the implications of the pending decision from the General Court for its final position on the complainant's access request.

In August 2025, the Ombudsman requested further clarifications as to how the potential production of the documents at issue in case T-138/23 relates to the Ombudsman's inquiry in case 1080/2024/PVV.

In reply, the Commission stated that, *"if the documents requested are subject to a positive decision from the General Court in case T-138/23, the documents requested would become part of the court file."* Therefore, the Commission's *"assessment of the request for access to documents would take into account the fact that the documents requested are part of the court file"*. The Commission also said that, at the time of writing (22 September 2025), the General Court had not yet taken a decision on the complainant's request.

From its reply, the Ombudsman understands that the Commission has effectively suspended its handling of the complainant's confirmatory application until the General Court's decision on the production of the documents in the context of Case T-138/23. The Ombudsman considers that such a suspension cannot be reconciled with the time limits set in Regulation 1049/2001 and recent case-law of the Court of Justice of the EU¹, in which the Court made it clear that the possibility for an applicant to request measures of inquiry cannot relieve an institution of its obligation to implement Regulation 1049/2001.

In view of this, the Ombudsman urges the Commission to adopt a confirmatory decision on the complainant's public access request as soon as possible and not later than **4 December 2025**. If the Commission does not adopt a confirmatory decision by that date, the Ombudsman intends to close this case with a finding of **maladministration**.

The inquiries officer in charge of this inquiry is Ms Paulien Van de Velde-Van Rumst (paulien.vandavelde@ombudsman.europa.eu or +32 2 283 47 31).

Yours sincerely,



Rosita Hickey
Director of Inquiries

¹¹ Judgment of 9 July 2025, *Kaili v Parliament*, T-1031/23, paragraphs 54 and 65-67, available at: <https://curia.europa.eu/juris/liste.jsf?num=T-1031/23&language=en>.