



EUROPEAN COMMISSION
Neighbourhood and Enlargement Negotiations

The Director-General

By registered letter with acknowledgment of receipt

Brussels,

090216

Subject: Your application for access to documents – Ref GestDem No 2015/6654

Dear Mr Dohle,

Thank you for your letter dated 18 December 2015, in which you requested access to documents under Regulation (EC) No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents. This request was registered on the same day under the above mentioned reference number. I also refer to the mail from DG NEAR to you of 19 January 2016 which informed that the Commission was not in a position to reply within the deadline foreseen by Regulation 1049/2001 and that an extended time limit was needed because different services had to be consulted.

The documents which the Commission has identified as relating to your request are enumerated in an annex.

Full access is granted to the following documents:

- Montenegro "Social welfare and Child Care System Reform: Enhancing Social Inclusion" Project (IPA 2010) Component "Child Care System Reform Final Evaluation Report, 7 July 2014.
- Final Narrative Report/ Child Care System Reform (Montenegro)/ Part of the overall "Social Welfare and Child Care System Reform: Enhancing Social Inclusion" Project (IPA 2010) ID No. 2010/255-602/ December 2014.
- Interim Narrative Report/ Continuation of the Child care System Reform in Montenegro (IPA 2014)/ Part of the "Support to Montenegrin Social Reform"/ 6 August 2015.
- Letter from Ms Mitja Drobnič, Head of EU Delegation to Montenegro, and from Mr Benjamin Perks, UNICEF Representative, addressed to Ms Zorica Kovacevic, Minister of Labour and Social Welfare, dated 2 October 2015.
- Letter from Ms Zorica Kovacevic, Minister of Labour and Social Welfare, addressed to Ms Mitja Drobnič, Head of EU Delegation to Montenegro, and to Mr Benjamin Perks,

¹ OJ L145, 31.05.2001, page 43.

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UNICEF Representative, dated 14 October 2015, both in the original in the Serb language and in English translation.

The Commission can grant only partial access to the following documents:

- Note to Mr Mitja Drobnič, Head of EU Delegation to Montenegro, dated 30 March 2015.
- Note from Mr Mitja Drobnič, Head of EU Delegation to Montenegro, dated 23 April 2015.
- Email to Mr Mitja Drobnič, Head of EU Delegation to Montenegro, dated 1 June 2015.
- Email from Mr Mitja Drobnič, Head of EU Delegation to Montenegro, dated 25 June 2015.

Certain sections of these documents had to be deleted since they contain information covered by the exception to the right of access, relating to the protection of the privacy and the integrity of the individual, pursuant to Article 4 (1) (b) of Regulation (EC) N°1049/2001. The deleted names and functions of the persons concerned cannot be quoted because these are personal data whose disclosure would undermine the protection of the public interest as regards privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data, according to the above-mentioned disposition of Regulation 1049/2001.

The applicable legislation relating to the public interest as regards privacy and the integrity of the individual is Regulation (EC) No 45/2001² on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³. We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

If you wish to receive these personal data, we invite you to provide us with arguments explaining your need for such information and demonstrating that there would be no adverse effects to the legitimate rights of the persons whose data should be disclosed.

I regret to inform you that the following document is covered by an exception provided for by Regulation (EC) No 1049/2001 in its entirety and cannot be made available to you:

- Mission report – Peer review on the rights of the child, and on the fight against trafficking in human beings/ Podgorica, 26-30 October 2015, dated 5 November 2015.

Please note that the peer review missions are part of the on-going policy dialogue with Montenegro which includes negotiating on sensitive policy development and reform issues. As part of the on-going enlargement process with Montenegro, the Commission organises peer review missions to allow open exchanges of views between peers on a range of often sensitive issues. The resulting reports are delivered to the European Commission on the understanding of the beneficiary country that the Commission does not distribute them beyond the parties of the intergovernmental accession negotiations.

Disclosing the information contained in the above-mentioned document would undermine the position of the Commission in relation to the Montenegrin authorities in

² OJ L8, 12.01.2001, page 1.

³ Judgment of the Court of Justice of the EU of 29 June 2010 in case C-28/08 P, Commission/The Bavarian Lager Co. Ltd

the accession negotiations and risk jeopardising the related reform process within Montenegro.

The exception set out in Article 4 (1) (a) of Regulation 1049/2001 is not subject to a public interest test. Therefore, the document cannot be disclosed on the grounds of the protection of the public interest as regards international relations under Article 4 (1) (a) third indent of Regulation 1049/2001.

Partial access to the requested document was examined and deemed impossible as the sensitive elements are integral to it. Please note that we cannot provide you with more detailed information on this document without disclosing its substance which is protected by the exceptions laid down in Article 4 (1) (a) third indent and Article 4 (3) first subparagraph of Regulation (EC) No 1049/2001.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a long horizontal stroke extending to the right.

Christian Danielsson

Annexes: 10