

## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

The Director-General

Brussels,  
DG CONNECT/RM/AS/pef

Mr. Ntetsikas

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**Subject: Your application for access to documents – Ref GestDem No 2013/3375 under Regulation 1049/2011 regarding public access to European Parliament, Council and Commission documents – partial reply**

Dear Sir,

We refer to your email dated 26 June 2013 wherein you make a request for access to documents, registered by us with the above-mentioned reference number.

We refer furthermore to our letter of 5 July 2013 wherein you have been proposed that your application is handled in several successive stages and your reply of 6 July 2013, accepting the Commission's proposal, wherein you have indicated the priority order for disclosure of the documents subject of your request for access to documents.

The current reply covers the following requests:

**1. The documents describing the DG CONNECT Anti-fraud Strategy, Policy, and Operational Organisation, from 1/1/2010 onwards.**

Please be informed that we have identified two documents corresponding to your request. You will find enclosed the documents requested.

However, please note that only partial access can be granted to these documents.

Pursuant to Article 4(2) third indent of Regulation 1049/2001 *"the institutions shall refuse access to a document where disclosure would undermine the protection of [...] the purpose of inspections, investigations and audits unless there is an overriding public interest in disclosure."*

The exception aimed at protecting the purpose of audits only applies to limited parts, which have been expunged in the attached copies. The disclosure of the parts that have been blanked out would reveal information on the manner in which audits are concretely carried out. This would seriously reduce the effectiveness of the audit capacity of the Commission.

Consequently, disclosure of the expunged parts in the documents requested has to be refused pursuant to Article 4(2) third indent of Regulation 1049/2001.

We have examined to which extent exceptions laid down in Article 4(2) third indent of Regulation 1049/2001 may be waived in case of an overriding public interest in disclosure. Such an interest must firstly be a public interest and secondly outweigh the harm caused by the disclosure.

Having analysed your request, we have not found any elements which could justify the existence of an overriding public interest in the sense of the Regulation, which would outweigh the exceptions stipulated in Article 4(2) mentioned above.

Therefore, we have concluded that access to the blanked parts of the documents cannot be granted.

Furthermore, according to Article 4(1) fourth indent of Regulation 1049/2001 *"the institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards [...] the financial [...] policy of the Community [...]."*

Since full public access to the documents requested would weaken the Commission's audit capacity, this would also have a negative impact on the budget of the EU, as the Commission would have more difficulties in detecting irregularities and cases of fraud. Thus, the documents requested should be expunged in order to protect the financial interests of the EU and avoid any damage in this regard.

Consequently, disclosure of the expunged parts in the documents requested has to be refused pursuant to Article 4(1)a fourth indent of Regulation 1049/2001.

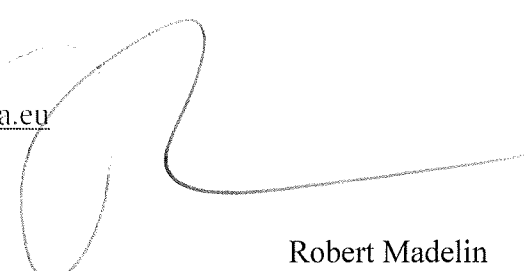
In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the position above.

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-5  
BERL 5/327  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,



Robert Madelin

Enclosure:

- 1) ANNEX 1 - DG INFSO ANTI-FRAUD STRATEGY
- 2) ANNEX 2 – DG INFSO'S CONTROL & ANTI-FRAUD STRATEGY: VERSION MARCH 2010