



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR NEIGHBOURHOOD AND ENLARGEMENT NEGOTIATIONS

R – Resources

R.2 – Legal Issues

Brussels

Subject: Your application for access to documents – Ref. GestDem 2021/7050

Dear Mr Gecic,

We refer to your application dated 16 November 2021¹, registered on 17 November 2021 under the above-mentioned reference number². You requested access to:

“Any and all information, email, correspondence, briefing notes, informal opinions, minutes and/or any other exchange regarding or containing any reference to the case ECS-10/18 the Secretariat of the Energy Community against Bosnia and Herzegovina, see [https://urldefense.com/v3/_https://energy-community.org/legal/cases/2018/case1018BH.html_!!DOxrgLBm!Ut1EdWcRXxYewel8_Fut1h-g8eWwQYIH0hnOFyIbZ5mn_ahBA9W0rwy2H48ozdcK9rKfrQ\\$](https://urldefense.com/v3/_https://energy-community.org/legal/cases/2018/case1018BH.html_!!DOxrgLBm!Ut1EdWcRXxYewel8_Fut1h-g8eWwQYIH0hnOFyIbZ5mn_ahBA9W0rwy2H48ozdcK9rKfrQ$)

This includes but is not limited to any past or pending proposal(s) for Council Decision(s) on the position to be adopted on behalf of the European Union in the Ministerial Council of the Energy Community and in the Permanent High Level Group of the Energy Community, with accompanying internal reasoning, as well as, any and all other information in the possession of DG NEAR and its services.”

You addressed the same requests to the Commission’s Directorate General for Competition and Directorate General for Energy; these other requests are handled separately by the respective services.

We also refer to the clarification request sent by DG NEAR on 4 January 2022, and to our reminders of 11, 19, 25 January and 8 February 2022. In this request, we sought clarification of the second part of your application, especially concerning your reference

¹ Ref. Ares(2021)7058867.

² Ref. Ares(2021)7065812.

Mr Bogdan Gecic
Nikole Spasića 2
11000 Belgrade
Serbia

By email only: bogdan.gecic@geciclawn.com

to “all other information” as this description is very wide both in content and timeframe and does not allow to identify concrete documents. In accordance with the third paragraph of Article 2 of the Detailed rules for the application of Regulation (EC) No 1049/2001³, the deadline of 15 working days for handling your application would have started running again upon receipt of the requested clarifications.

In line with the judgement of the Court of Justice of the European Union of 2 October 2014 in case C-127/13, *Guido Strack v Commission*, EU:C:2014:2250, paragraphs 27-28, as we have not received any reply from your side to our clarification request after 4 reminders, we are restricting the scope of your application to the main part of your application.

Based on the above, we have identified 102 documents as falling under the scope of your application. Please find enclosed the list of the documents identified, as regrouped in 11 categories (A to K), corresponding to their cover emails/letters.

The cover emails/letters and their annexes that were sent by you (10 out of the 11 categories) are not attached to this letter.

The correspondence of which you are not the author/sender are documents 5 and 6. We have examined these documents under the provisions of Regulation (EC) No 1049/2001⁴ and we have decided that partial access can be granted to them. Full disclosure is prevented by the exception to the right of access laid down in Article 4(1)(b) (protection of the privacy and integrity of the individual) of Regulation (EC) No 1049/2001.

Protection of the privacy and the integrity of the individual

Complete disclosure the documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001. In particular, these documents contain the names, and handwritten signatures of staff members of other organisations.

Article 9(1)(b) of the Data Protection Regulation⁵ does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data, nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested document, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the

³ Official Journal L 345 of 29 December 2001 p. 94.

⁴ 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, Official Journal L 145 of 31 May 2001, p. 43.

⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, Official Journal L 295 of 21 November 2018, p. 39.

individuals concerned would not be prejudiced by disclosure of the personal data concerned.

Means of Redress

For reasons of good order, we further refer to Article 7(2) of Regulation (EC) No 1049/2001. Pursuant to this Article, 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
General Secretariat
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels

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

Yours sincerely,

(e-signed)

Christos Komninos
Head of Unit

Enclosures: List of documents
Documents 5 ad 6