



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

Director-General

Brussels,
GROW I2/SPR(2022)

Mr Peter Teffer
Follow the Money
Overtoom 197
1054 HT Amsterdam
The Netherlands

Sent by email only to:

[ask+request-11335-
61b33045@asktheeu.org](mailto:ask+request-11335-61b33045@asktheeu.org)

Subject: Request for access to documents – GESTDEM No. 2022/3096 – Second reply

Dear Mr Teffer,

Thank you for your e-mail of 25 May 2022 which was registered at the Internal Market, Industry, Entrepreneurship and SMEs Directorate-General of the European Commission on 30 May 2022, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

1. SCOPE OF YOUR REQUEST

Your e-mail requested access to documents as follows:

“An overview of all letters and e-mails sent and received since 11 May 2020, including date, of the following infringement cases:

20162179
20162180
20162182
20162183
20172044

If any of these cases are closed, the content of those letters and e-mails since 29 February 2016.”

You further specified:

“I realise that for the cases that are still open, the Commission would invoke article 4.2 (the purpose of inspections, investigations and audits) on the content of the documents. However, an overview of the documents - the 'metadata' so to say - cannot in any way undermine the protection of the purpose of the infringement investigation.”

The infringement case 2017/2044 is still open. On 21 June 2022, you received a reply concerning that case only. The present reply concerns the other four cases, which have been closed.

2. DESCRIPTION OF DOCUMENTS IDENTIFIED

We identified 79 documents falling under the scope of your request. Thus, the application concerns a high number of documents. On 17 June, we sent you a fair solution proposal asking you whether you could narrow down the scope of your request, to reduce it to a more manageable number (approximately 30).

On 21 June, you confirmed that you were willing to narrow down the scope of your request to document numbers 49 to 79 in the original document register provided to you, i.e. the last 31 documents listed.

The present reply thus covers these 31 documents. The updated document register is enclosed.

For nine documents originating from Germany and the United Kingdom (documents 4, 5, 11, 14, 15, 18, 19, 20 and 26), the third-party consultations are currently ongoing. You will receive a separate reply regarding these documents as soon as the third-party consultations have been completed. We apologise for the inconvenience.

3. DISCLOSURE OF 22 DOCUMENTS

Documents 1-3, 6-10, 12, 13, 16, 17, 21-25 and 27-31 are disclosed in their entirety, apart from the redaction of personal data.

Documents 1-3, 7-10, 12, 13, 17, 21-25 and 27-31 originate from the European Commission. You may reuse the documents free of charge for non-commercial and commercial purposes provided that the source is acknowledged, and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Documents 6 and 16 originate from third parties. I can confirm that DG Internal Market, Industry, Entrepreneurship and SMEs has consulted according to Article 4, paragraph 4 of Regulation 1049/2001 the third parties with a view to assessing whether an exception in paragraph 1 or 2 is applicable, and has obtained their permission to disclose the documents.

Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

4. PROTECTION OF PERSONAL DATA

With regard to the documents listed above, a complete disclosure of the identified 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, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of natural persons.

Article 9(1)(b) of the Data Protection Regulation¹ 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 arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I 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 documents, 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 individuals concerned would not be prejudiced by disclosure of the personal data concerned.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Bruxelles,
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Mark Nicklas

Annexes: Document register
22 documents (47 PDF files)

¹ 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, OJ L 295, 21.11.2018, p. 39.