



## 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 – Third reply**

Dear Mr Teffer,

referring to the letter of 7 July 2022, in which you were informed that you were receiving a partial reply to your access to documents request GestDem No 2022/3096, I would now like to provide you with a follow-up reply.

With the reply of 7 July 2022, 22 documents were disclosed out of the 31 documents identified. For nine documents (plus attachments) originating from Germany and from the United Kingdom, consultations with the third parties were ongoing. These consultations have now been concluded. The updated document register is enclosed.

#### **1. DISCLOSURE OF 10 DOCUMENTS**

Documents 4, 5, 11, 14, 15, 15.a., 18, 19, 26 and 26.b. are disclosed in their entirety, apart from the redaction of personal data.

The documents 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.

## **2. PARTIAL DISCLOSURE OF 3 DOCUMENTS**

According to Article 4(4) of Regulation (EC) No 1049/2001, as regards third party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

Therefore DG Internal Market, Industry, Entrepreneurship and SMEs has consulted, in accordance with Article 4(4) of Regulation (EC) No 1049/2001, the authorities of United Kingdom, who have agreed to partial access to document 4.a., based on the exception of the protection of court proceedings and legal advice provided for in the second indent of Article 4(2) of Regulation (EC) No 1049/2001. Parts which concern ongoing court proceedings have been redacted from the document.

Likewise, DG Internal Market, Industry, Entrepreneurship and SMEs has consulted the authorities of Germany, who have agreed to partial access to documents 20 and 26.a., based on the exceptions of the protection of court proceedings and legal advice provided for in the second indent of Article 4(2), and the protection of the purpose of inspections, investigations and audits provided for in the third indent of Article 4(2) of Regulation (EC) No 1049/2001.

The redacted parts relate to statements on ongoing proceedings by the public prosecutor's offices concerned and their investigation considerations, as well as the pending opening decisions of the respective criminal chambers. In some cases, the proceedings are not yet legally binding or have not yet been completed, or the investigative activities are still ongoing. There is no evidence that individual proceedings have been concluded in the meantime, so it can be assumed that the proceedings concerned are still being conducted. In order not to jeopardise the proper and unbiased conduct of these procedures and investigations by the public prosecutor, the text passages that allow statements or conclusions to be drawn about these proceedings and activities have been redacted.

## **3. 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 Regulation<sup>1</sup> 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

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<sup>1</sup> 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.

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](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Kerstin Jorna  
*e-signed*

Annexes: Document register  
9 documents (13 PDF files)