

EUROPEAN COMMISSION
Neighbourhood and Enlargement Negotiations

The Director-General

Ref. Ares(2015)4201721 - 09/10/2015

Brussels, 09. 10. 2015

By registered letter with acknowledgment of receipt

Subject: Your application for access to documents – Ref GestDem No 2015/4566

Dear Ms Motet,

Thank you for your mail dated 07.04.2015, in which you requested access to documents under Regulation (EC) No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents. You requested us to provide you with the following documents:

- *documents containing the information related to the contract, or the contract passed by the Commission with MORIS SLOVAKIA SRO pertaining to reference (budget) SCR.CTR.351573.01.1 (BGUE)*
- *documents containing the information related to the contract, or the contract passed by the Commission with MORIS SLOVAKIA SRO pertaining to reference (budget) SCR.CTR.351605.01.1 (BGUE).*

This request was registered on 28.08.2015 under the above mentioned reference number. By our mail of 18.09.2015, we informed you that in accordance with Article 7 (3) of Regulation No 1049/2001, the time limit was extended with 15 working days and would expire on 09.10.2015.

In fact, only a single contract by the European Commission with Moris Slovakia s.r.o. could be found that would correspond to the description given in your application: this is the supply contract for European Union external actions N° ENPI/2014/351-573 with the contract title 'Supply of mobility equipment for the State border guards service Ukraine', which was signed by the European Commission and the contractor Moris Slovakia s.r.o. on 28.10.2014 and 30.10.2014 respectively.

¹ OJ L145, 31.05.2001, page 43.

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The following annexes are attached to the above-mentioned contract:

- Annex I – General Conditions;
- Annex II – Technical Specifications;
- Annex III- Technical Offer;
- Annex IV - Budget.

Please note that this single contract was split in the Commission's accounting system into two registered contracts, respectively N° ENPI/2014/351-573 and N° ENPI/2014/351-605 for purely technical reasons.

Having examined the above-mentioned contract and its annexes, I have come to the conclusion that access to the contract and to its annexes III and IV must be fully refused. I regret to inform you that these parts of the contract are covered by one of the exceptions provided for by Regulation (EC) No 1049/2001. It is apparent that disclosure of commercial information reflecting the specific know-how and proposed methods of Moris Slovakia s.r.o contains commercially sensitive information. Consequently, disclosure of such information must be refused on the basis of Article 4 (2) first indent of Regulation 1049/2001 which stipulates that "the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property". Therefore, the contract and its annexes III and IV cannot be made available to you.

Partial access to the documents quoted in the paragraph above was examined and deemed impossible as the sensitive elements are integral to them.

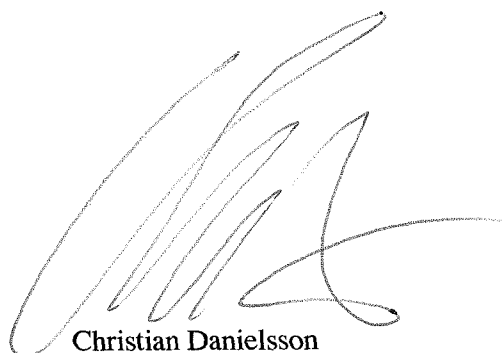
To the extent that access is refused on the basis of Article 4 (2), first indent, of Regulation 1049/2001, the exception to the right of access must be waived if there is an overriding public interest in disclosure. For such an overriding public interest to exist, this interest, firstly, has to be public and, secondly, overriding, i.e. it must outweigh the interest provided by virtue of Article 4 (2), first indent, of Regulation 1049/2001. In your application you do not invoke any interest except your own interest which is of private nature. For these reasons you have not established arguments that would show the existence of an overriding public interest in disclosure at this point in time. Neither has the Commission identified such an overriding public interest, based on the elements in its possession. For all these reasons, I do not see in the case at hand a public interest within the meaning of Regulation 1049/2001, that is to say objective and general in nature and which is not indistinguishable from individual or private interests that would outweigh the public interest in protecting the commercial interests of Moris Slovakia s.r.o.

As regards Annexes I and II of the contract, I have come to the conclusion that they can be fully disclosed. Please find attached Annexes I and II.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review its 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-5
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Christian Danielsson

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