



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS
The Director-General

Brussels,
HOME/E2

Registered letter with AR

Mr Davis Savic
Access Info Europe
Calle Cava de San Miguel 8, 4º centro.
28005 Madrid
Spain

Advance copy by email: ask+request-3981-8cd57440@asktheeu.org

Subject: Your application for access to documents – ref. GestDem n°2017/810

Dear Sir,

We refer to your e-mail dated 10/02/2017 in which you make a request for access to documents, registered under the above mentioned reference number.

In your e-mail you asked to receive the reports submitted by Greece, Austria, the UK, Ireland, Croatia and Luxembourg for the ex-post evaluation report (2007-2010) for the External Borders Fund.

We hereby enclose a copy of the requested documents for Greece and Austria.

Please note that these documents were received by the Commission from the Greek and Austrian authorities. They are disclosed for information. They do not reflect the position of the Commission and cannot be quoted as such.

With regard to the reports for the UK, Ireland, Croatia and Luxembourg, we regret to inform you that no documents were found that would correspond to the description given in your application for the following reasons:

The UK and Ireland did not benefit from the External Borders Fund because this Fund was a development of the Schengen acquis in which these two Member States did not take part (as provided in Decision No 574/2007/EC establishing the Fund).

Croatia joined the EU in 2013 (therefore only at a later stage in relation to the evaluation in question) and after EU accession it did not participate in the External Borders Fund.

Although Luxembourg was requested to submit a national report as contribution to the ex-post evaluation report, the authorities decided not to submit a report, therefore the final evaluation report omits a contribution from Luxembourg.

As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that no such documents have been identified for the UK, Ireland, Croatia and Luxembourg, the Commission is not in a position to handle this request.

Furthermore, with regard to the documents for Greece and Austria to which you have requested access, some of the documents contain personal data.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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
Secretary-General
Transparency unit SG-B-4

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

BERL 5/282
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

e-signed

by Simon MORDUE

on behalf of

Matthias RUETE

Enclosures: Ex-post evaluation report on the results and impacts of actions co-financed by the External Borders Fund in Greece, and its annex. Ex-post evaluation report on the results and impacts of actions co-financed by the External Borders Fund in Austria, and its annex.