



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Resources and Support
Compliance and Planning
Head of Unit

Brussels, 21st March 2019
CONNECT/R4

Mr. Dimitar Dimitrov
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REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your application for access to documents- Ref GestDem 2019/0684

Dear Mr Dimitrov,

We refer to your letter dated 06/02/2019 in which you make a request for access to documents pursuant to 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 ('Regulation 1049/2001'), registered under the above-mentioned reference number. We also refer to our email dated 27/02/2019, our reference Ares(2019)1298170, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation 1049/2001.

In your application addressed to DG CONNECT, you requested: *"A document authored or co-authored by Mr. Volker Rieck that contains information about the "#NoUploadFilter" campaign opposing Article 13 in the Copyright in the Digital Single Market Directive."*

1. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

We identified a document titled "An assault on politics – chronicled blow by blow" (Ref. Ares(2019)1673177).

2. ASSESSMENT UNDER REGULATION 1049/2001

Having examined the document under the provisions of Regulation 1049/2001, we have arrived at the conclusion that **partial access** can be granted, since an exception under Article 4 of the Regulation applies.

Parts of the identified document contain personal data, in particular names, email addresses and other details of individuals external to the European Commission.

Pursuant to Article 4(1)(b) Regulation 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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EC) No 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 ('Regulation 2018/1725').

In its judgment in Case C-28/08 P (Bavarian Lager), the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, personal data shall only be transmitted if '[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

We consider that, with the information available, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the document, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy.

Please note that the document was sent to the European Commission by its authors. It is disclosed for information only and may not be re-used without the agreement of the originator who holds a copyright on it. It does not reflect the position of the Commission and cannot be quoted as such.

3. CONFIRMATORY APPLICATION

In accordance with Article 7(2) of Regulation 1049/2001, 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
Secretary-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

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

Yours sincerely,

(e-signed)

Katleen Engelbosch

Enclosure: 1