



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels,
MARE.E.4/CLV/ae

Ms Josefina MARTI
Calle de Juan Bravo 62
ES-28006 Madrid

*By registered letter with acknowledgement of receipt
Advance copy by email*

**Subject: Your applications for access to documents - GESTDEM 2019/2248 and
GESTDEM 2019/1985**

Dear Ms Marti,

We refer to your e-mails requesting access to documents dated 30.03.2019 and 05.04.2019, which were registered under the above-mentioned reference numbers.

You request access to the following documents:

"- All documents, including all emails, minutes, reports or other documents received or drawn up before, during or after the meeting held between Commissioner Karmenu Vella and Archbishop Alain Paul Charles Lebeaupin (March 17, 2017), and any other briefing papers related to this meeting.

- A complete of list of all meetings held by any member of your team/staff with churches, religious associations or communities, as well as with philosophical and non-confessional organisations, from 1 January 2014 onwards, specifying the status of the organization (church, religious association or community, philosophical association or non-confessional association). All documents, including all emails, minutes, reports or other documents received or drawn up before, during or after the meetings, and any other briefing papers related to these meetings".

As regards the first request (GESTDEM 2019/1985), your application concerns the following document:

"Briefing for the meeting between Commissioner Karmenu VELLA and Archbishop Alain Paul Charles Lebeaupin of 17 March 2017". You will find this document attached to this letter.

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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is 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/EC¹ ('Regulation 2018/1725').

¹Official Journal L 205 of 21.11.2018, p. 39.

The document to which you request access contains personal data, in particular names of Commission staff members.

Indeed, Article 3(1) of Regulation 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data².

Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to non-senior staff members of an institution are to be considered personal data.

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 applicable³

Pursuant to Article 9(1)(b) of Regulation 2018/1725, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies 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.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced.

Notwithstanding the above, please note that 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 documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the

²Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](https://eur-lex.europa.eu/eli/cej/2017/994).

³Whereas this judgment specifically related to 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 data, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

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.

Concerning your second request (GESTDEM 2019/2248), as specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institutions services. We regret to inform you that the Directorate-General for Maritime Affairs and Fisheries does not hold any document corresponding to your above-mentioned request, since no such meetings took place, and is therefore not in a position to fulfill your request for any related document.

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 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
Secretariat-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,

João AGUIAR MACHADO
(e-signed)

Enclosure: Briefing for the meeting between Commissioner Karmenu VELLA and Archbishop Alain Paul Charles Lebeaupin of 17 March 2017