





EUROPEAN COMMISSION

Brussels, 4.12.2018
C(2018) 8427 final



Deutscher Bundestag
Platz der Republik 1
11011 Berlin
Germany

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) N° 1049/2001¹**

**Subject: Your confirmatory application for access to documents under
Regulation (EC) No 1049/2001 - GESTDEM 2018/5452**

Dear ,

I refer to your letter of 30 October 2018, registered on the same day, in which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter 'Regulation 1049/2001').

1. SCOPE OF YOUR REQUEST

In your initial application of 17 October 2018, addressed to the Secretariat-General of the European Commission, you requested access to documents containing the following information: '[t]he content of the flash cards employed in meetings on trade policy between Donald Trump and Jean-Claude Juncker in July 2018, as described in <https://www.newsweek.com/eu-chief-trump-flash-cards-10444>.'

In its initial reply of 30 October 2018, Directorate H ('External Relations') of the Secretariat-General replied to your request. It considered that the briefing material used by President Juncker in his meetings with Heads of State or Government of third countries fell within the scope of your request.

¹ Official Journal L 345 of 29.12.2001, p. 94.

² Official Journal L 145 of 31.5.2001, p. 43.

It refused access to it based on Article 4(1)(a), third indent (protection of the public interest as regards international relations) of Regulation 1049/2001.

In your confirmatory application, you request a review of this position. You explain that '[you] are filing [a] confirmatory application with regard to [your] access to documents request 'Flash Cards used to explain Trade Policy to President Trump'. You state further that 'the documents in question contain only general explanations of trade policy rather than any information that would be considered confidential by either the EU or the US government'.

You conclude that '[you] fail to see how relations could be harmed by making them accessible to [you]' and ask the European Commission to reconsider your request.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

Following this review and based on the explanations provided in your confirmatory application, I understand that your request is focused on the 'flash cards', or documents which contain the content of these cards, used by President Juncker in meetings on trade policy with President Trump.

I would like to draw your attention to the fact that Regulation 1049/2001 applies to 'all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union'. The 'flash cards' you request are not documents drawn up by the European Commission, nor documents received by it and in its possession. These cards were short-lived support material used by President Juncker in meetings on trade policy with President Trump and, as such, they do not fall under Regulation 1049/2001.

President Juncker used the content of these cards to made public declarations after his meetings on trade policy with the President of the United States. The documents that contain the content of the 'flash cards' are the following:

- Keynote speech 'Transatlantic relations at a crossroads' by President Juncker at the Centre for Strategic and International Studies (CSIS), publicly available here: http://europa.eu/rapid/press-release_SPEECH-18-4690_en.htm;
- Statement by President Jean-Claude Juncker at the joint press conference in the White House Rose Garden with Donald Trump, President of the United States, publicly available here: http://europa.eu/rapid/press-release_SPEECH-18-4701_en.htm;
- Joint U.S.-EU Statement following President Juncker's visit to the White House, publicly available here: http://europa.eu/rapid/press-release_STATEMENT-18-4687_en.htm.

3. MEANS OF REDRESS

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

For the European Commission



Martin SELMAYR
Secretary-General