



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

The Director-General

Brussels, 20th November 2020
CNECT/R.4

Mr Laurens Cerulus
Politico
Gemeentestraat 16
3010 Kessel-Lo
Belgium

Advanced copy by email to:

[ask+request-8634-
04a2820a@asktheeu.org](mailto:ask+request-8634-04a2820a@asktheeu.org)

REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your application for access to documents – GestDem 2020/6059

Dear Mr Cerulus,

I refer to your application 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 documents¹ (hereinafter 'Regulation 1049/2001'), dated 8 May 2020 and registered on 12 May 2020 under the above-mentioned reference number, once you provided your postal address. I also refer to our holding reply sent you on the 03 November 2020 (our reference Ares(2020)6299773).

1. SCOPE OF YOUR REQUEST

Your request reads as follow:

'As per EU Council document CM 3752/1/20, the European Commission gave a presentation to the Horizontal Working Party on Cyber Issues on October 5 about the "Joint Cyber Unit (State-of-play)." I would to request this presentation and speech notes or any written material that was presented to the working party alongside it'.

¹ Official Journal OJ L 145, 31.5.2001, p. 43.

2. DOCUMENTS FALLING WITHIN THE SCOPE OF YOUR REQUEST

We have identified the following document as falling within the scope of your request:

- *'HWP speaking points (5 October 2020) – JCU (Ares (2020)6839495).*

Please note that the presentation given by the European Commission to the Horizontal Working Party on Cyber issues on October 5th about the “Joint Cyber Unit” consisted in an oral intervention, followed by questions by Member States. Therefore, there is no additional document falling within the scope of your access to document request.

3. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

Having examined the document requested under the provisions of Regulation 1049/2001, I regret to inform you that we cannot provide you access to the document, as its disclosure is prevented by the exceptions to the right of access laid down in the first subparagraph of Article 4(3) of Regulation 1049/2001, notably:

- the protection of the institution's decision-making process with regard to a document drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution.

The document which you request access to is related to the subject of the Joint Cyber Unit. This is an ongoing policy project for which the Commission is carrying out consultations with Member States as well as relevant EU institutions, bodies and agencies. Consultations are still ongoing and the Commission has not yet proposed policy measures to achieve a Joint Cyber Unit. For this reason, we cannot grant access to the identified document as it might undermine the integrity of the power of initiative conferred on the Commission by the Treaties and its capacity to assess, wholly independently, the appropriateness of a policy proposal.

Therefore, disclosure of the document would seriously undermine the protection of the Commission decision-making process, in terms of the first subparagraph of Article 4(3) of Regulation 1049/2001, and is prevented by the latter provision.

4. PARTIAL ACCESS

We have considered whether partial access could be granted to the document requested. However, the entirety of the above document is covered by the exception to access referred to above.

5. OVERRIDING PUBLIC INTEREST

The exception of the first subparagraph of Article 4(3) of Regulation 1049/2001 applies, unless there is an overriding public interest in disclosure of the document. We have examined, whether there could be an overriding public interest in disclosure, but have arrived at the conclusion, that there is no such interest in disclosure.

6. POSSIBILITY OF A 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

Secretariat-General

‘Transparency, Document Management and Access to Documents’ (Unit SG.C.1)

BERL 7/076

1049 Brussels

BELGIUM

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

Yours sincerely,

(e-signed)

Roberto Viola