



EUROPEAN COMMISSION

Secretariat-General

Directorate C – Transparency, Efficiency & Resources

The Director

Brussels
SG.C.1/TB/rc -

By registered mail with AR

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Subject: Your application for access to documents – GESTDEM 2020/7220

Dear Mr Hillebrandt,

I refer to your e-mail of 24 November 2020, registered on the same day, in which you make a request for access to documents, under the above-mentioned reference number.

1. SCOPE OF YOUR REQUEST

You request access to, I quote:

‘The 181st to the 210th final decisions by the European Commission in confirmatory application procedures under Regulation 1049/2001 issued in 2019. (An initial request for access to the first 180 documents of this category was already made in six previous requests.)’.

In your request, you specified that you request access to the requested documents for the purposes of academic research. You further added that any personal data is explicitly excluded from the scope of your request and you agree any related redactions in the documents. Moreover, you reminded that you were interested in gaining access only to the documents containing the European Commission decision concerning the confirmatory application. Thus, the enclosures of the requested documents do not fall within the scope of your request. You also indicated that wherever the English version of the requested documents is available, you limit your access request to that version only.

The identified documents falling within the scope of your request, including their detailed references, are listed in Annex I of this reply.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001

I can inform you that full access is granted to the requested documents except for document 204.

The personal data, to which you do not request access, have been redacted as they fall outside of the scope of your request.

I can inform you that partial access is granted to document 204 subject to redactions made on the basis of the first indent of Article 4(2) (protection of commercial interests of a natural or legal person, including intellectual property), for the reasons set out below.

2.1. Protection of commercial interests of a natural or legal person

Pursuant to the first indent of Article 4(2) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.

Document 204 contains the name of the client of the law firm associated with the applicants who submitted the initial request for access to documents.

Information revealing details about clients of law firms is not publicly available, as it results from an understanding between the firm and its client that such information would remain confidential.

Given the competitive environment in which law firms operate, information disclosing the identity of their clients might give competitors an unfair advantage. Moreover, it can undermine the client's trust in the law firm concerned, if the existence of their business relationship becomes publicly known. Therefore, this information should be considered as commercially sensitive business information.

Consequently, there is a real and non-hypothetical risk that public access to the above-mentioned information would undermine the commercial interests of the legal persons concerned.

I conclude, therefore, that access to the relevant parts of document 204, disclosing the names of these legal persons as clients of the law firm associated with the applicants, must be denied on the basis of the exception laid down in the first indent of Article 4(2) of Regulation (EC) No 1049/2001.

3. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exceptions laid down in the first indent of Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosure.

Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

In your access to document request, however, you do not put forward any reasoning pointing to an overriding public interest in disclosing the documents requested.

Nor have I been able to identify any public interest capable of overriding the public and private interests protected by the first indent of Article 4(2) of Regulation (EC) No 1049/2001.

4. PARTIAL ACCESS

In accordance with Article 4(6) of Regulation (EC) No 1049/2001, I have considered the possibility of granting (further) partial access to document 204.

However, for the reasons explained above, no wider partial access is possible without undermining the interests described above.

5. MEANS OF REDRESS

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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Brussels,

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

Yours sincerely,

Tatjana Verrier
Director

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