



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels,
MARE.E.1

Mr Peter Teffer
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Subject: Your application for access to documents – GESTDEM 2021/8158

Dear Sir,

We refer to your e-mail of 14 December 2021, in which you make a request for access to documents, registered on 17 December 2021 under the above-mentioned reference number. We also refer to our e-mail of 18 January 2022 (Ref. Ares(2022)366776) with which we extended the deadline to treat your request by 15 working days, in accordance with Article 7(3) of Regulation (EC) No 1049/2001, in order to consult the concerned Member State.

In your application, you requested access to: *“The European Commission final audit report 2014/EFF/NL/EMP2/1 with reference number Ares(2015)1383822, any communication between the Netherlands and the European Commission about the final audit report and/or its follow up, any internal communications on, and/or assessment of, the follow up actions taken by the Netherlands in response to this audit report”*.

The following documents have been identified as falling within the scope of your application:

- **Document n. 1:** The European Commission final audit report 2014/EFF/NL/EMP2/1 (Ref. Ares(2015)1383822);
- **Document n. 2:** The follow-up letter on in-kind contributions (Ref. Ares(2015)1981527) of 11/05/2015
- **Document n. 3:** The reply from the Dutch authorities to the final audit report of 30/06/2015.
- **Document n. 4:** The follow-up letter from the Dutch authorities regarding Programma audit "Perspectieven voor een duurzame visserij" of 16/07/2015.

Please note that Documents n. 3-4 originate from a Member State (the Netherlands), whose authorities have been consulted in the context of this request.

1. ASSESSMENT UNDER REGULATION 1049/2001

Having examined the requested documents under the provisions of Regulation (EC) No 1049/2001, I have come to the conclusion that they can be **partially disclosed**. Some parts of the documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(b) and Article 4(2) first indent of this Regulation.

The redacted parts of the documents contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of Staff members from the Dutch authorities;
- the names/initials and contact details of other natural persons;

Article 9(1)(b) of the Data Protection Regulation¹ does not allow the transmission of the personal data indicated under the first two indents above, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

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

In addition, the redacted parts of the four documents contain data (such as project names and reference numbers, specific project details) whose disclosure would undermine the protection of commercial interests of a natural or legal person. Please note that the Member State, from which documents n. 3-4 originate, has been consulted and opposed to the disclosure of these data, which are covered by the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001.

The exceptions laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest. We note that you do not put forward any elements to demonstrate the existence of an overriding public interest in disclosure of these parts of the requested documents, nor have we been able to identify any elements capable of demonstrating the existence of a public interest that would override the need to protect the commercial interest of a natural or legal person.

2. DISCLAIMER

¹ OJ L 295, 21.11.2018, p. 39-98: 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/EC (Text with EEA relevance.)

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Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

3. CONFIRMATORY APPLICATION

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 its 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
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels

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

Yours sincerely,

(e-signed)
Charlina VITCHEVA

- Annexes:**
- Document n. 1: The European Commission final audit report 2014/EFF/NL/EMP2/1(Ares (2015) 1383822)
- Document n. 2: The follow-up letter on in-kind contributions (Ares(2015)1981527) of 11/05/2015.
- Document n. 3: The reply from the Dutch authorities to the final audit report of 30/06/2015.
- Document n. 4: The follow-up letter from the Dutch authorities regarding Programma audit "Perspectieven voor een duurzame visserij" of 16/07/2015.