Subject: Your application for access to documents – EASE 2024/2215

Dear Sir,

We refer to your request for access to documents, registered on 25 April 2024 under the above-mentioned reference number.

You request access to the letters between the Commission and Hungary, Poland, Spain on Pegasus.

Your application concerns the following documents:

- Letter from the Commission to Poland dd. 14.02.2022, registered under reference number Ares(2022)1074786;
- Letter from the Commission to Spain dd. 24.05.2022, registered under reference number Ares(2022)3894228;
- Letter from Hungary to the Commission dd. 11.05.2022, registered under reference number Ares(2022)4084762;
- Letter from Poland to the Commission dd. 29.03.2022, registered under reference number Ares(2022)2373937.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

Article 4(2), third indent of Regulation (EC) No 1049/2001, provides that the ‘institutions shall refuse access to a document where disclosure would undermine the protection of the purpose of inspections, investigations and audits’.

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
These letters are under assessment by the European Commission in relation to the use of Pegasus and equivalent intrusive surveillance software by Member States.

The Commission cannot disclose the letters at this time as it would undermine the mutual trust between the authorities of the concerned Member States and the Commission and would risk to prematurely alter the nature of the assessment.

While the exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosure of the documents, in this instance the public interest in making the content of the documents public does not outweigh the harm that disclosure would cause to the interests protected by the invoked exception.

Therefore, the exception laid down in Article 4(2), third indent of Regulation (EC) No 1049/2001 applies to these documents.

We have considered whether partial access could be granted to the documents requested. However, it is our belief that the disclosure of redacted versions of the documents requested may lead to speculations and unwarranted conclusions. It would generate an unwarranted pressure on the European Commission.

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:

By mail, to:

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 faithfully,

(e-signed)
Ana GALLEGO