



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Director-General

Brussels, **25 JUL. 2012**  
MOVE/A2/CS D(2012)

Mr Richard Dowling

Email: [ask+request-155-efflacc2@asktheeu.org](mailto:ask+request-155-efflacc2@asktheeu.org)

**Subject: Request to access documents – GESTDEM 2012-2972**

Dear Mr Dowling,

I refer to your email dated 14 June 2012 (GestDem 2012/2972), in which you request access, under Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup>, to communications concerning security at all Irish airports between the Commission and the Dublin Airport Authority and/or the Irish Department for Transport.

By letter of 29 June 2012, the Commission informed you that, in view of the considerable research it would involve and in accordance with Article 7(3) of Regulation (EC) No 1049/2001<sup>2</sup>, the prescribed period of 15 working days had to be extended by another 15 working days.

As per your request, please note the following:

1. Since your request had not indicated a timeline, the Commission decided to consider the year of 2012 as the period to cover your request.
2. There are no records of exchange of communication between the European Commission and the Dublin Airport Authority.
3. A number of documents have been found which refer to exchange of information between the Irish Department of Transport and the European Commission: see attached table - Annex 1.
4. Documents numbered 1, 4, and 11 are classified RESTREINT UE and fall under Article 4.1 a), first indent of Regulation 1049/2001 which states "The institutions shall refuse access to a document where disclosure would undermine the protection of: a) the public interest as regards public security [...]". Indeed, they may contain information whose disclosure would undermine security at EU airports thus causing a serious threat to public security. In addition, it is not demonstrated that there is an overriding public interest relating to the disclosure of these documents.

For these reasons they cannot be made available to you either entirely or partially.

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<sup>1</sup> OJ L 145, 31.05.2001, p. 43.

<sup>2</sup> 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 documents (OJEC of 31.05.2001, No L 145, pp. 43-48).

5. Some of the documents to which you have requested access contain personal data, more specifically Documents 2, 5, 7 and 8.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>3</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>4</sup>. According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

6. As regards documents for which the Commission is not the author the Commission is obliged to consult them before disclosure (Article 4.4 of Regulation (EC) N° 1049/2001). After having requested authorisation to the authors, the following documents received by DG MOVE can be disclosed to you: Numbers 3, and 6. Document 10 has received a request for partial disclosure as some of the contents, if public, could present a risk for aviation security. The document has therefore been expunged of such information.
7. An additional number of documents originating from the European Commission addressed to the Irish Department of Transport have been identified. Having examined the documents the Commission has come to the conclusion that they may be disclosed therefore we enclose documents 9, 12 and 13.

However, please note that these documents cannot be reproduced or disseminated for commercial purposes without prior consent given by the Commission.

We are replying to you by email. Given the size of the documents a zip file containing the copies of the documents is being sent to you attached to the reply.

For documents for which the Commission concluded that partial disclosure or no disclosure was possible, please note that if you want this position to be reviewed you should write to the Commission's Secretary-General at the address below. You have 15 working days in which to do so from receipt of this letter, after which your initial request will be deemed to have been withdrawn.

The Secretary-General  
European Commission  
B-1049 BRUSSELS

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<sup>3</sup> OJ L 8 of 12.1.2001, p. 1

<sup>4</sup> Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, not yet reported

The Secretary-General will inform you of the result of this review within 15 working days from the registration of your request, either granting you access to the documents or confirming the refusal. In the latter case, you will be informed of how you can take further action.

Yours sincerely,

  
P. 5 Matthias RUETE