



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate A: Strategy and General Affairs
Unit A.2: Legal Affairs
The Head of Unit

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Subject: Your e-mail dated 06.10.2016 on "Internal review of access to documents request – UK infringement of EU Directive"

Dear Ms Mc Neill,

The Directorate-General for Justice and Consumers has transmitted to me your message of 06.10.2016 concerning "*Internal review of access to documents request – UK infringement of EU Directive*", as the Directorate-General for Migration and Home Affairs is responsible for this policy area.

On 13 March 2015, you made two initial applications¹, into which you requested access to the document *C(2014)219/F - Infringement notice and [t]he letter that has been sent from the Commission to the UK authorities in the context of infringement procedure 2014/0219*.

We identified at that time the following document as falling under the scope of your requests:

- Letter of formal notice of the European Commission sent to the authorities of the United Kingdom within the infringement procedure 2014/0219, concerning the transposition by the United Kingdom into national law of Directive 2011/93/EU on combating child sexual abuse and exploitation, C(2014) 500/28.

At the time of your requests, this document had been drawn up by the Commission in the framework of the infringement proceedings conducted by DG HOME in case 2014/0219 pursuant to Article 258 of the Treaty on the Functioning of the European Union (TFEU).

At that time, these infringement proceedings were open and fully ongoing. That is the reason why, in its initial reply of 7 April 2015, the Directorate-General for Home Affairs and Migration refused access to the document based on the exception of Article 4(2), third indent (protection of the purpose of investigations) of Regulation 1049/2001². I refer you to the reasoning of this letter.

On 02.05.2015, you submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) n°1049/2001 regarding public access to European Parliament, Council and Commission documents. The Commission confirmed that no access was given to the document for the same reasons as were explained in the initial replies³. I refer you to the reasoning of this letter.

¹ Applications registered under number Gestdem 2015/1563 and Gestdem 2015/1564.

² ARES(2015) 1486262 – 07.04.2015 - letter sent to you again as Annex to the present reply.

³ ARES(2015) 2222287 - 28.05.2015 - letter sent to you again as Annex to the present reply.

By e-mail dated 09.08.2015, you made a new initial request⁴, with the same content as the original one. You received a positive reply from Directorate-General for Home Affairs and Migration upon your request, the infringement case had been closed in the meantime.

I however notice that the unit in charge of this reply has added to the letter the documents showing that the case had been closed, but forgot to include the full text of the letter of formal notice. I am pleased to send it to you as attachment.

In that same letter, we brought to your attention some elements of the infringement procedure.

The specific infringement procedure you refer to concerns the failure of the UK to transmit to the Commission the text of the provisions transposing into national law the obligations imposed on it by the Directive 2011/93/EU of the European Parliament and the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, by the deadline for the Directive's transposition, namely 18 December 2013. The UK was obliged to do so under Article 28 of the Directive.

On the basis of the examination of the measures communicated to the Commission by the UK authorities, the communication of national implementation measures appeared to be complete. As a result, the Commission decided to close the infringement proceedings for non-communication on 16.07.2015.

The aforementioned decision had no prejudice on the examination of the measures' content by the Commission to determine the conformity of the transposition and their correct implementation. We informed you that this was an ongoing process. The Commission, in that context, is now preparing an implementation report on the directive's transposition. This report is due to be adopted at the end of the year. I therefore invite you to come back to us, if needed, on the basis of the information contained in this report.



Dimitri GIOTAKOS

Appendices:

- Letter of formal notice in infringement procedure 2014/0219 (non-communication case)
- ARES(2015) 1486262, GESTDEM 2015/1562 - 07.04.2015
- Ares(2015) 2222287, GESTDEM 2015/1563+1564 - 28.05.2015
- ARES(2015) 3816617, GESTDEM 2015/4549 – 15.09.2015

⁴ Application registered under number GestDem 2015/4549 – Reply under reference ARES(2015) 3816617 – 15.09.2015. Letter sent to you again as Annex to the present reply.