



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate D: Security
Unit D.2 : Organised Crime
The Head of Unit

Brussels, 15. 09. 2015
HOME D2/CAI/vdb/ home.d.2(2015)4269643

Ms Sabine Kurjo McNeill
21a Goldhurst Terrace
Kliburn
London NW6 3HB
United Kingdom

email: sabine.mcneill@3dmetrics

Subject: Your application for access to documents – Ref GestDem No 2015/4549

Dear Ms McNeill,

We refer to your e-mail dated 09.08.2015 in which you make a request for access to documents, registered on 27.08.2015 under the above mentioned reference number.

Your application concerns the following documents:

- *The EU infringement notice [relating to the infringement launched by the Commission against the UK for non-communication of national measures implementing Directive 2011/93/EU]*. We understand this request to refer to the official letter of formal notice by the Commission to the UK as a first step in the infringement procedure.

- Further, in your message of 2.9.2015, you also request access to the *closing document [on that infringement]*. We understand this to refer to the Commission decision closing this case

We enclose a copy of the two documents requested.

You may reuse the documents requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

We take this opportunity to address the questions raised in your message of 2.9.2015, that we treat as a request for information, distinct from your request for access to documents (GESTDEM 2015/4549), and to provide you with some explanations about the infringement procedure.

In accordance with the Treaty on Functioning of the European Union (TFEU), if the Commission considers that a Member State has failed to fulfil an obligation under the

Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations (Article 258 TFEU). This also applies to the failure to notify the Commission of the national implementing measures in transposition of Directives adopted under a legislative procedure (Article 260 par. 3 TFEU).

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.

The Commission sent a Letter of Formal Notice on 27.1.2014 to the UK government as the first step in the infringement proceedings. The Letter of Formal Notice was addressed to the Foreign Secretary and was dispatched via the UK Permanent Representation to the EU in Brussels. A reply on behalf of the UK authorities dated 24.03.2014 was conveyed on behalf of the Ministry of Justice through the UK Permanent Representation to the EU. In the meantime, the UK officially communicated the national legislation implementing the Directive.

On the basis of the examination of the measures communicated by the UK authorities, the communication of national implementation measures appears to be complete. As a result, the Commission decided to close the infringement proceedings *for non-communication* on 16.7.2015.

The aforementioned decision has no prejudice on the examination of the measures' content by the Commission to determine the conformity of the transposition and their correct implementation. This is an ongoing process. In that analysis, account must be taken of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security in accordance with Article 72 TFEU. We inform you that the operation of national criminal proceedings is under the responsibility of national courts and authorities. The Commission has no competence to intervene in such individual proceedings.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anabela GAGO', with a long horizontal stroke extending to the left.

Anabela GAGO

Enclosures: 2 requested documents