



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

Acting Director-General

Brussels, **31 JUL. 2015**
JUST/A1/JS/jeh/ D(2015)3444018
Ares(2015)2612428

Klaus Zinser
Hauptstrasse 8
88427 Bad Schussenried
Germany

By registered letter with acknowledgment of receipt

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2015/03298

We refer to your e-mail dated 16/06/2015 in which you make a request for access to documents, registered on 19/06/2015 under the above mentioned reference numbers.

Your application concerns the documents which contain information regarding the preparation of the Practice Guide for the application of the Brussels IIa Regulation. In this context you ask for information on the selection procedure of the contractor, the contract as well as the participation of the Commission's officials and representatives of other institutions.

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents I have come to the conclusion that they may be partially disclosed. You will find attached the terms of reference prepared by the Commission to request the revision of practice guide, the specific contract which was signed with the contractor as well as the 2006 version of the guide the revision of which was asked for.

However, the disclosure of the framework contract signed with the external contractor as well as the offer submitted to the Commission in reply to its request which contains information on the remuneration and the methodology of the work cannot be disclosed on the basis of the exception to the right of access laid down in Article 4 of this Regulation. The document which you seek to obtain contains commercially sensitive business information of the company that submitted the offer to carry out the revision of the guide. Disclosure of that document would undermine the protection of the commercial interests of the company that submitted it, as putting this information in the public domain would affect its competitive position on the market. Therefore the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to these documents.

In addition to the disclosed documents, I would like to inform you that the Commission included the updating and the republishing of its guides in the 2012 Civil Justice Programme.

This was mainly due to the fact that since the adoption of the Regulation there were several judgments of the European Court of Justice which covered matters in the scope of the Brussels IIa Regulation. Practice guides are usually prepared by the Commission to raise awareness of the instruments and ease their application by citizens and practitioners; their nature is purely informative and therefore, their preparation does not require any special procedure involving other institutions or courts. The work on the Brussels IIa Practice Guide was terminated in November 2014 and it was supervised by the Directorate General Justice and Consumers, more specifically by the Unit dealing with Civil Justice Policy.

As regards your additional e-mail of 16 June 2015 in which you enquire about the interpretation of Article 47 of the Regulation, I would like to draw your attention to the interpretation of the aforementioned Article delivered by the European Court of Justice. In *Povse v. Alpago*¹ the Court stated that rules of law of the Member States govern matters of procedure, as provided for in Article 47(1) of the Regulation, namely the arrangements for enforcement of the judgment.

In accordance with Article 7(2) of Regulation 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:

European Commission

Secretary-General

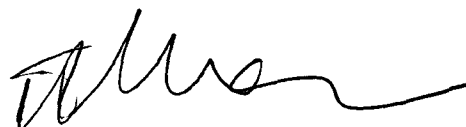
Transparency unit SG-B-4

BERL 5/327

B-1049 Bruxelles

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

Yours faithfully,



Paraskevi MICHOU

Annexes:

- Terms of reference "Revision of practice guide"
- Specific contract JUST/2012/JCIV/FW/0007
- 2006 Practice guide for Brussels IIa Regulation

¹ C-211/10 PPU, para. 72-75.