



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Industrial Transformation and Advanced Value Chains

Automotive and Mobility Industries

Head of Unit

Brussels, 30. 05. 2016
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***By registered letter with
acknowledgment of receipt***

Mr Peter Teffer
Rue Montoyer 18B
1000 Brussels
Belgium

Advance copy by email:
[ask+request-2772-
b461b3ba@asktheeu.org](mailto:ask+request-2772-b461b3ba@asktheeu.org),
[ask+request-2775-
77d21324@asktheeu.org](mailto:ask+request-2775-77d21324@asktheeu.org)

Subject: Requests for access to documents – GESTDEM Nos. 2016/1933 and 2016/1938

Dear Mr Teffer,

Thank you for your e-mails dated 12 April 2016 which were registered at the Internal Market, Industry, Entrepreneurship and SMEs Directorate-General of the European Commission on 12 April 2016, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

As the scope of the requests GestDem 2016/1933 and GestDem 2016/1938 largely covers the same documents, we are sending a combined reply for both requests.

1. SCOPE OF YOUR REQUEST

Your e-mail requested access to documents falling under the following scope:

GestDem 2016/1933

"- The content of all member states' notifications of provisions on penalties, as required by article 13 of regulation (EC) No 715/2007, of 20 June 2007.

- The content of all member states' notifications of any subsequent amendments affecting the aforementioned penalties, as required in the same article, sent by member states to the Commission since 2 January 2009."

GestDem 2016/1938

"- The content of all member states' notifications of provisions on penalties, as required by article 46 of directive 2007/46/EC of 5 September 2007;

- The content of all member states' notifications of any subsequent amendments affecting the aforementioned penalties, as required in the same article, sent by member states to the Commission".

2. DESCRIPTION OF DOCUMENTS IDENTIFIED

Concerning request GestDem 2016/1933, I would like to inform you that most Member States have not communicated their national rules to the Commission separately under article 13 of Regulation 715/2007. We have identified such a notification from Denmark, Finland and Ireland only.

Concerning request GestDem 2016/1938, the Commission has received one notification specifically under article 46 of directive 2007/46/EC. This notification has been received from Hungary.

With a note dated from 12 February 2013 to the attention of the members of the Technical Committee of Motor Vehicles (TCMV), the Commission services requested Member States to notify their national measures implementing the obligations in Article 46 of Directive 2007/46/EC and Article 13 of Regulation (EC) No 715/2007. A reply has been received from 18 Member States.

On 29 February 2016 the Commission sent a note to 23 Member States requesting further information on the national measures described above. To date, replies from 18 Member States have been received.

Altogether, 40 documents have been received which fall under the scope of your requests. These documents are listed in the enclosed document register.

3. DISCLOSURE OF THE REQUESTED DOCUMENTS

At this stage, we can grant access to 22 documents. For the rest of the documents, the third-party consultations are still ongoing. You will receive a separate reply regarding these documents as soon as the third-party consultations have been completed.

All the 22 documents being released originate from third parties. I can confirm that DG Internal Market, Industry, Entrepreneurship and SMEs has consulted according to Article 4, paragraph 4 of Regulation 1049/2001 the third parties with a view to assessing whether an exception in paragraph 1 or 2 is applicable, and has obtained their permission to release the documents.

Please note that the documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

17 of the documents being released contain personal data.

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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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 sincerely,



Joanna Szychowska

Annexes: Document register
Zipped file of documents

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.