



EUROPEAN COMMISSION

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

Director-General

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By registered letter with acknowledgment of receipt

Nina Katzemich
LobbyControl e. V.
Am Justizzentrum 7
D-50939 Köln
Germany

Advance copy by email: ask+request-3743-4c1e184d@asktheeu.org

Dear Mrs Katzemich,

Subject: Your application for access to documents – Ref GestDem No 2017/0358

We refer to your e-mail dated 23/01/2017 in which you make a request for access to documents, registered on 23/01/2016 under the above mentioned reference number.

You request access to “all reports or minutes or other notes of meetings held with EUTOP consultancy since December 2014 between the lobby firm and DG GROW or within DG GROW concerning EUTOP. All written communication with EUTOP like Emails, letters etc. The request relates to all DG officials - including the Commissioner, his Cabinet and Director General”.

As stated in our reply letter of 06 March 2017 (ARES reference number Ares (2017)1195317), we had identified further documents falling under the scope of your request, which were under assessment. These documents are listed in the documents register enclosed with this letter.

Since the documents concerned originate from a third party, the originator of the documents has been consulted.

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third party, I regret to inform you that your application cannot be granted in respect of these further documents, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

These further documents which you seek to obtain contain commercially sensitive business information of the third party that submitted it.

The author of the documents has objected to disclosure of the documents that it sent to the Commission and has motivated its position as follows:

The disclosure of the documents would undermine the protection of commercial interests of the company and its clients pursuant to Article 4 paragraph 2 of Regulation (EC) No 1049/2001. The documents exchanged with the Commission would jeopardize the guarantee of increased protection,

by virtue of the requirement of professional secrecy and business secrecy, for the information provided to the Commission. Since the concerned document may allow conclusions regarding non-public-strategic consideration, it must be classified as a business secret of the concerned company.

The possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001 has also been examined. However, this is not considered possible since the document in question is covered in its entirety by the above-mentioned exceptions.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the document concerned, which outweighs the interest protected by the exceptions to the rights of access. In this case the Commission has reached the conclusion that there appears to be no overriding public interest in its disclosure in the sense of the Regulation.


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 5/282
B-1049 Bruxelles

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

Yours sincerely,

A handwritten signature in purple ink, appearing to read 'Lowri Evans', is written over a large, stylized circular flourish. To the left of the signature is a small, handwritten 'Pb'.

Lowri Evans

Annexe: Document register