



EUROPEAN COMMISSION

Brussels, 26.10.2018
C(2018) 7296 final

Mr Peter Teffer
EU Observer
Rue Montoyer 18B
1000 Brussels

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) N° 1049/2001¹**

**Subject: Your confirmatory application for access to documents under
Regulation (EC) No 1049/2001 – GESTDEM 2018/3267**

Dear Mr Teffer,

I refer to your email of 7 August 2018, registered on the same day, in which you lodge a confirmatory application in accordance with Article 7(2) of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter ‘Regulation 1049/2001’).

1. SCOPE OF YOUR REQUEST

In your initial application of 15 June 2018, you requested access to ‘documents which contain the following information: [a]ll documents – including but not limited to emails, papers, reports and minutes – created by and/or sent to the Commission related to the technical issue which affected the first call for applications of the WiFi4EU portal’³.

Through its initial reply dated 31 July February 2018, the Directorate-General for Communications Networks, Content and Technology, after having found and applied a fair solution in accordance with Article 6(3) of Regulation 1049/2001, assessed 10 documents falling within the scope of your application and:

¹ Official Journal L 345 of 29.12.2001, p. 94.

² Official Journal L 145 of 31.05.2001, p. 43.

³ See in this regard the statement of 14 June 2018 by Commissioner Gabriel on the first call for applications for WiFi4EU vouchers: http://europa.eu/rapid/press-release_STATEMENT-18-4158_en.htm.

- gave full access to five documents (documents 2, 5, 6, 7 and 8);
- gave partial access to five documents (documents 1, 3, 4, 9 and 10), only subject, where applicable, to the redaction of personal data based on Article 4(1)(b) of Regulation 1049/2001 (protection of privacy and the integrity of the individual), and subject to the redaction of the parts of text that the Directorate-General for Communications Networks, Content and Technology considered as falling out of the scope of your application.

In your confirmatory application, you contest only two specific issues insofar as you request access to:

- the reply of the Legal Service of the European Commission to a note that was partially disclosed at the initial stage (document 1); and
- the parts in documents 1, 3 and 9 that the Directorate-General for Communications Networks, Content and Technology considered as falling out of the scope of your application.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

First, I note that your request for access to the above-mentioned reply of the Legal Service was registered as a new initial request under GestDem 2018/4286 and attributed to the Legal Service⁴.

With regard to those parts of documents 1, 3 and 9 that were considered as falling out of the scope of your application, having examined your confirmatory application, I would like to inform you that wider partial access is granted to all three documents. Only one paragraph in document 3 and one paragraph in document 9 are still considered as falling out of the scope of your application, as they do not concern the first call for applications, but possible future calls for applications.

At the same time, I would like to inform you that, after consultation of the third-party originator in accordance with Article 4(4) of Regulation 1049/2001, full access is given to the two annexes to document 9, which were not disclosed at the initial stage (see documents 11 and 12). Please note that these documents were received by the Commission from the Innovation and Networks Executive Agency. They are disclosed for information only. Please also note that document 12 was never published in the Official Journal of the European Union.

⁴ As announced to you by e-mail of 8 August 2018 (reference Ares(2018) 4159692).

3. PARTIAL ACCESS

As indicated above, wider partial access is granted to all three documents in question. Moreover, full access is granted to two additional documents, which are annexes to one of these documents. Please find attached the (redacted) versions of these documents.

4. MEANS OF REDRESS

Finally, I would like to draw your attention to the means of redress that are available against this decision, that is, judicial proceedings and complaints to the Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,



For the Commission
Martin SELMAYR
Secretary-General

Enclosures: 5