



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate B - Investment, Innovative & Sustainable Transport
The Director

Brussels, 25 September 2018

Mr Pascoe Sabido
Corporate Europe Observatory
Mundo B
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1050 Brussels
Belgium

**By registered letter with acknowledgment of receipt –
advance copy by email
*ask+request-5691-33d29c5d@asktheeu.org***

Subject: Your application for access to documents. Ref GESTDEM 2018/3472

Dear Mr Sabido,

We refer to your e-mail message dated 25 June 2018 in which you made a request for access to documents registered on 27 June 2018 under the above-mentioned reference number. We also make reference to our letters addressed to you on 12 and 27 July 2018 and to our exchange of e-mails of 5 September 2018 concerning our request for an extension of the deadline for the provision of the documents and a reduction of the period covered by your request.

In fact, we noted, and pointed out in our correspondence, that your request for access covers a potentially very wide range of documents dated since 2013, and would entail a disproportionate administrative burden. Therefore, we suggested seeking a fair solution in the meaning of Article 6(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹. Such solution could consist in shortening the search period and reducing the scope of your request.

Regrettably, you reacted immediately rejecting our proposal and insisting on receiving a reply within the normal statutory time limits set out in Regulation (EC) No 1049/2001.

In the meantime, we have received a second request from you, registered as GESTDEM 2018/4605.

¹ OJL 145, 31.5.2001, p.43.

I would like to explain more in detail the reasons why it is not possible for us to handle your request as it has been formulated. These reasons are :

- (1) Your application covers an undefined amount of documents such as minutes and internal reports of all meetings, and documents related to contracts and EU projects over a period of more than five years.
- (2) The potentially pertinent documents must be verified one by one to check whether they match your demand. This is a very difficult and time-consuming exercise due to the lack of precise search criteria.
- (3) Almost all pertinent documents are related to EU projects or contracts. So far, we only found one that does not. This document concerns the invitation to designate a speaker for the 2015 TEN-T Conference in Riga.
- (4) Since you have made two extensive applications in a short period of time, we are supposed to deal with the latest one while we are still working on the former one.
- (5) Many of the documents that will be identified as a result of these searches originate from third parties, as you request access to all correspondence with a number of external organizations. These third parties will have to be consulted to obtain their agreement to share (with you) the documents at stake.

This leads to the following conclusions:

- (1) It is physically impossible to retrieve and assess all documents that would fall within the scope of your applications within the normal time frames set out in Regulation (EC) No 1049/2001.
- (2) The handling of your applications would entail a disproportionate amount of work, leading to seriously disturbing the functioning of some services.
- (3) The handling of access requests made by other applicants should not be delayed as a result of the administrative burden entailed by the handling of your applications.

The Court of Justice has considered that an institution is entitled to balance the interest in public access to the documents against the burden of work caused by the handling of very voluminous requests, in order to safeguard, in those particular cases, the interests of good administration².

Under these circumstances, I propose the following fair solution in the meaning of Article 6(3) of Regulation (EC) No 1049/2001:

- the scope of your applications should be limited to the documents not linked to administrative steps concerning contracts or contract-related correspondence unless you specify in which contract or reasonable number of contract(s) you are interested.

² Judgment of the Court of First Instance of 13 April 2005 in case T-2/03, *Verein für Konsumenteninformation v Commission*, [2005] ECR II-O 1121, paragraph 102.

I sincerely hope that it will be possible to reconcile your right of access to documents of the Commission with the proper functioning of the Commission's services. A refusal from your side to co-operate to agree on a fair solution would make it impossible for the Commission to handle your application. In the absence of a reply within five working days, we will unilaterally restrict the scope of your application.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'H. Ruijters', with a large, stylized initial 'H'.

Herald RUIJTERS