



EUROPEAN COMMISSION

Brussels, 31.7.2019
C(2019) 5882 final

Mr Michael Grange
Ardcollum Ave, Artane
Dublin 5
Ireland

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹**

**Subject: Your confirmatory application for access to documents – GESTDEM
2019/2823**

Dear Mr Grange,

I am writing in reference to your email of 19 July 2019, registered on the same day, by which you lodge a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter ‘Regulation (EC) No 1049/2001’).

1. SCOPE OF YOUR APPLICATION

In your initial application of 10 May 2019, registered on 15 May 2019 and dealt with by the Service for Foreign Policy Instruments, you requested access to ‘documents which contain the information on the Irish election roster’. More specifically, you requested access to ‘documents within the control of the Commission concerning the establishment of the call for applicants, the conduct of the competitions and appeals including briefing materials provided for/at EU Focus Point meetings’.

By letter of 5 July 2019, the Service for Foreign Policy Instruments identified the following documents as falling within the scope of your request:

- Call for candidatures for long-term observers and short term observers for an election observation mission (EU EOM) to Senegal, 26 November 2018, reference Ares(2018)6060458 (hereafter ‘document 1’);

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

² Official Journal L145 of 31.05.2001, p. 43.

- call for candidatures for long-term observers for an election observation mission (EU EOM) to Nigeria, 21 November 2018, reference Ares(2018)5990656 (hereafter ‘document 2’);
- call for candidatures for long-term observers and short term observers for an election observation mission (EU EOM) to Madagascar, 13 August 2018, reference Ares(2018)4230042 (hereafter ‘document 3’);
- call for candidatures for long-term observers and short term observers for an election observation mission (EU EOM) to Malawi, 3 April 2019, reference Ares(2019)2373984 (hereafter ‘document 4’);
- European Union guidelines on common criteria for the selection of electoral observers, reference Ares(2019)4304306 (hereafter ‘document 5’);
- minutes of the bi-annual meeting of the national focal points for election observation, 10-11 December 2018, reference Ares(2019)4062213 (hereafter ‘document 6’).

In its initial reply dated 5 July 2019, the Service for Foreign Policy Instruments granted full access to documents 1-5 and partial access to document 6. The limited withheld parts of document 6 were redacted on the basis of Article 4(1)(a), third indent (protection of international relations) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

In your confirmatory application, you do not contest the redactions that were made in document 6. You only question the list of documents identified at the initial stage as falling under the scope of your application. In particular, you state that ‘[t]he documents are not related to the information request that I actually made. I sought namely records within the framework of the establishment of the 2018 Irish election roster “documents within the control of the Commission concerning the establishment of the call for applicants, the conduct of the competitions and appeals including briefing materials provided for/at EU Focus Point meetings”’.

Therefore, the scope of this confirmatory review will be limited to this point.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) No 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation (EC) No 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

Against this background, the European Commission has carried out a renewed, thorough search for documents that would fall within the scope of your request as described above.

Following this renewed search, I confirm that the European Commission does not hold any further documents that would correspond to the description given in your application.

Indeed, please note that the European Commission does not have any document related to the Irish election roster for the year 2018 because it is up to the national authorities (focal points, in the present case, the Irish focal point) to define their pre-selection criteria for nominating their candidates for short-term and long-term observers. This means that any documents related to the Irish pre-selection roster are neither within the control nor in possession of the European Commission. In particular, the responsibility of the pre-selection of observers is under the exclusive remit of the national authorities.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that the European Commission does not hold any such documents corresponding to the description given in your application, it is not in a position to fulfil your request.

3. MEANS OF REDRESS

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European 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

