



Luxembourg,
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By registered letter with acknowledgment of receipt

Martina Tombini
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advance copy by e-mail:

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Subject: Your application for access to documents – Ref GestDem No 2019/4566

Dear Ms Tombini,

We refer to your e-mail dated 25/07/2019 in which you make a request for access to documents, registered on 06/08/2019 under the above-mentioned reference number.

On 25/07/2019, you received by email a number of references with links to Eurostat website where information corresponding to your request can be found. We regret to inform you that, beyond those references, the Commission does not hold any documents that would correspond to the description given in your application.

In this context, I would like to point out that the question regarding the possible status of information stored in databases as a document within the meaning of Regulation (EC) No 1049/2001 has already been subject to an assessment by the General Court, which in its ruling in Case T-214/13 established that ‘in the event of an application for access designed to have the Commission carry out a search of one or more of its databases using search criteria specified by the applicant, the Commission is obliged, subject to the possible application of Article 4 of Regulation (EC) No 1049/2001, to accede to that request, if the requisite search can be carried out using the search tools which it has available for the database in question’¹.

With this judgement, the General Court confirmed the previous judgment in the *Dufour* case, where the Court stated that ‘anything that can be extracted from a database by means of a normal or routine search may be the subject of an application for access’².

¹ Judgment of the General Court of 2 July 2015 in Case T-214/13, *Typke v Commission*, ECLI:EU:T:2015:448, paragraph 56.

² Judgment of the General Court of 22 October 2011 in Case T-436/09, *Dufour v European Central Bank*, ECLI:EU:T:2011:634, paragraph 153.

Furthermore, I would like to bring to your attention the most recent judgement in Case C-491/15P, where the Court took the position that the routine character of an operation which determines whether information extracted from a database is a document, is determined by whether the operation has been made available to final users for general use³.

The information requested by you is stored in the database 'Asylum & managed migration', which presents information on the number of asylum applicants and decisions on applications; residence permits; statistics on the enforcement of immigration legislation and children in migration.

Some parts of the data range concerned can not be extracted from the relevant database by means of a routine search operation using the search tools available. More details in that regard were given in the above-mentioned email, which is annexed to this letter for ease of reference.

For these reasons, the information requested is not included in any existing document.

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 no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

In accordance with Article 7(2) of Regulation (EC) No 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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

or by email to: sg-xxxxxxx@xx.xxxxxx.xx

Yours sincerely,

(eSigned)
Mariana Kotzeva

Enclosure: e-mail from Eurostat User Support of 25.07.2019

³ Judgment of the Court of 11 January 2017 in Case C-491/15P, *Typke v Commission*, ECLI:EU:C:2017:5, paragraph 36.