



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS  
Directorate D: Law Enforcement and Security  
Unit D.4 : Cybercrime

Brussels  
HOME.D.4/

Registered letter with acknowledgement of receipt  
Mr Patrick Breyer  
Rue Wiertz 60,  
1040 Bruxelles

Advanced copy by e-mail  
[ask+request-7551-0e9837b7@asktheeu.org](mailto:ask+request-7551-0e9837b7@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No 2020/179**

Dear Mr Breyer,

We refer to your e-mail dated 03/01/2020 in which you make a request for access to documents, registered on 10/01/2020 under the above mentioned reference number.

You request access to documents pertaining to a study on data retention, such as tender, contract/agreements etc.

Your application concerns the following document:

SPECIFIC CONTRACT HOME/2019/ISFP/FW/LECO/0011 implementing framework contract No HOME/2016/FW/LECO/0001, including the terms of reference and the technical and financial offers from the contractor (document ref. ARES (2019)7213424 - 22/11/2019).

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that they may be partially disclosed. Some parts of the document have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The redacted parts of the document, in particular technical and financial offers of the contractor and the final amount of the contract, contain commercially sensitive business information of the company that submitted the offer. The disclosure of these offers would undermine the protection of the relevant company expertise, know-how, strategy and creativity and thus their commercial strength, as it would be used by competitors in future similar procedures, to the detriment of the legal person concerned.

Therefore, the exception laid down in Article 4(2) first indent applies in this case.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document.

We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

Moreover a complete disclosure of the identified document is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of natural persons.

Article 9(1)(b) of the Data Protection Regulation<sup>1</sup> does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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 Brussels, or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Monique Pariat  
[e-signed]

---

<sup>1</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 205, 21.11.2018, p. 39.