



EUROPEAN COMMISSION

Secretariat-General

Directorate C - Transparency, Efficiency & Resources
The Director

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By registered mail with AR

Mr Maarten Hillebrandt
University of Helsinki Faculty of Law
Eric Castrén Institute
Yliopistonkatu 3
00101 Helsinki
Finland

Copy by email:
maarten.hillebrandt@helsinki.fi

Subject: Your applications for access to documents – GESTDEM 2020/3851

Dear Mr Hillebrandt,

I refer to your e-mail of 25 June 2020 in which you make a request for access to documents, registered on the same day under the reference number GESTDEM 2020/3851.

1. SCOPE OF YOUR REQUEST

In your application, you request access to, I quote, ‘[t]he 31st to the 60th final decisions by the European Commission in confirmatory application procedures under Regulation 1049/2001 issued in 2019’.

You further specify that you exclude from the scope of your request (i) any personal data contained in the requested decisions; and (ii) ‘any related documents’. By the latter, we understand your request to exclude explicitly the annexes to decisions on confirmatory applications, namely the documents forming part of these decisions and to which full or partial access is granted.

Moreover, you specified that where English-language versions of the documents are available, you only seek access to the versions in that language.

The identified documents falling within the scope of your request, including their detailed references, are listed in annex I of this reply.

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

Following a detailed assessment of the documents in light of the provisions of Regulation (EC) No 1049/2001, I hereby inform you that:

- full access is granted to documents 1-8, 10-11, 13-28 , and 30;
- partial access is granted to documents 9, 12 and 29, subject to the redaction of commercially sensitive information in accordance with the first indent of Article 4(2) (protection of commercial interests of a natural or legal person) of Regulation (EC) No 1049/2001, for the reasons set out below.

Personal data within the meaning of the Data Protection Regulation¹ has been redacted by default in the requested documents as falling outside the scope of your request.

2.1. Protection of commercial interests of a natural or legal person

Pursuant to the first indent of Article 4(2) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.

Documents 9, 12 and 29 contain the name of the client of the law firm associated with the applicant that submitted the respective confirmatory application for access to documents and to whom the confirmatory decision was addressed.

Information revealing details about clients of law firms is not publicly available, as it results from an understanding between the firm and its client that such information would remain confidential.

Given the competitive environment in which law firms operate, information disclosing the identity of their clients might give competitors an unfair advantage. Moreover, it can undermine the client's trust in the law firm concerned, if the existence of their business relationship becomes publicly known. Therefore, this information should be considered as commercially sensitive business information.

Consequently, there is a real and non-hypothetical risk that public access to the above-mentioned information would undermine the commercial interests of the legal persons concerned.

I conclude, therefore, that access to the relevant parts of documents 9, 12 and 29, disclosing the names, or other information allowing the identification, of clients of these legal persons, must be denied on the basis of the exception laid down in the first indent of Article 4(2) of Regulation (EC) No 1049/2001.

¹ 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 2018, 21.11.2018, p.39.

3. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exceptions laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

In your applications, you do not refer to any particular overriding public interest that would warrant public disclosure of the documents in question, and that would outweigh the need to protect them in light of the exceptions of Regulation (EC) No 1049/2001.

Nor have I been able, based on my own assessment, to establish the existence of a public interest that would override the need to protect the commercial interests of a natural or legal person, grounded in the first indent of Article 4(2) of Regulation (EC) No 1049/2001.

4. PARTIAL ACCESS

As indicated above, full access is granted to documents 1-8, 10-11, 13-28 , and 30, and partial access is granted to documents 9, 12 and 29 pursuant to the first indent of Article 4(2) (protection of commercial interests of a natural or legal person) of Regulation (EC) No 1049/2001.

5. MEANS OF REDRESS

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
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Brussels,
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Tatjana VERRIER

Enclosures: (31)