



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

Director-General

Brussels,
GROW C4/SPR/cds(2020)5497861

Mr Peter Teffer
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By email:

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Subject: Request for access to documents – GestDem No. 2020/4744

Dear Mr Teffer,

Thank you for your e-mail of 5 August 2020, registered at the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs of the European Commission on 15 June 2020, and requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

1. SCOPE OF YOUR REQUEST

Your e-mail requested access to documents as follows:

“All presentations given and other documents shared by participants in the Forum for the Exchange of Information on Enforcement of the EU legislation on the approval and market surveillance of motor vehicles (E03652).”

2. AVAILABILITY OF DOCUMENTS IN THE PUBLIC DOMAIN

The meeting documents of the Forum are in a CIRCABC group called “Forum for Exchange of Information on Enforcement”. Access to this group is restricted and is granted only to representatives of the Member States’ Type Approval Authorities and Market Surveillance Authorities.

Following your request, we have established another CIRCABC group, called “Forum for Exchange of Information on Enforcement - public”. This group is fully open to all and does not require any membership or registration with the CIRCABC system. The URL of the group is <https://circabc.europa.eu/w/browse/5e63b043-c07e-4176-9028-7516fac1b72>

89 meeting documents of the Forum are now available in the public group and are thus not covered by this reply.

3. NON-DISCLOSURE OF 17 DOCUMENTS

In addition to the documents that have been made public, we have identified 17 documents that match the scope of your request. The list of these documents is in annex.

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I would like to inform you that access to the documents cannot be granted.

Disclosure of document 16 is prevented by exception to the right of access laid down in Article 4(2), second indent of this Regulation ("The institutions shall refuse access to a document where disclosure would undermine the protection of [...] - the purpose of court proceedings and legal advice").

Document 16 contains legal advice from the Commission to the Member States authorities.

Disclosure of documents 1-15 and 17 is prevented by exception to the right of access laid down in Article 4(2), third indent of this Regulation ("The institutions shall refuse access to a document where disclosure would undermine the protection of [...] - the purpose of inspections, investigations and audits").

The Forum for Exchange of Information on Enforcement has been set up in accordance with Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.

The tasks of the Forum include the promotion of best practices in order to facilitate, for example, the uniform interpretation and implementation of Regulation (EU) 2018/858, the exchange of information on enforcement problems, the development of working methods and tools, the development of an electronic information exchange procedure, and the evaluation of harmonised enforcement projects and penalties.

Documents 1-15 and 17 contain detailed information related to the topics above, in particular regarding market surveillance, for example descriptions by Member States on potential breaches of the legislation and information presented by the Commission as regards the enforcement of legislation, including future plans for testing.

In order to guarantee the successful management of these activities and to maintain trust and build confidence among the authorities and the Commission, it is essential that the information shared with the Member States with regard to the possible violations of the legislation or enforcement problems is not disclosed to the public at this stage.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the document concerned, which outweighs the interest protected by the exception to the right of access. In this case the Commission has reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

The possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001 has also been examined. However, this is not considered possible since the documents in question are covered in their entirety by the above-mentioned exception.

4. MEANS OF REDRESS

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review its position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-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-acc-doc@ec.europa.eu

Yours faithfully,

(e-signed)
Kerstin Jorna
Director-General

Annexes: Document register