



EUROPEAN COMMISSION

Brussels, 22.10.2019  
C(2019) 7687 final

[REDACTED]  
[REDACTED]  
[REDACTED]  
10600 Plasencia  
Spain

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE  
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001<sup>1</sup>**

**Subject: Your confirmatory application for access to documents under  
Regulation (EC) No 1049/2001 - GESTDEM 2019/4174**

Dear [REDACTED],

I refer to your letter of 11 August 2019, registered on 12 August 2019, in which you submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup> (hereafter ‘Regulation (EC) No 1049/2001’).

I apologise for the delay in the handling of your application.

**1. SCOPE OF YOUR REQUEST**

In your initial application of 18 July 2019, addressed to the Directorate-General for Employment, Social Affairs and Inclusion, you requested access to, I quote ‘letter from the Directorate-General for Employment, Social Affairs and Inclusion, referred to in [a journal article], [a]s well as the letter of origin of the referred response of the [European Commission] [...] after the anonymisation of the corresponding personal data’<sup>3</sup>.

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<sup>1</sup> OJ L 345, 29.12.2001, p. 94.

<sup>2</sup> OJ L 145, 31.5.2001, p. 43.

<sup>3</sup> The original request in Spanish reads as follows: ‘Carta de la Dirección General de Empleo, Asuntos Sociales e Inclusión de la Comisión a que se refiere la siguiente noticia [...], [a]sí como la carta origen de la referida respuesta de la Comisión. Todo ello previa anonimización de los datos de carácter personal que correspondan’.

The Directorate-General for Employment, Social Affairs and Inclusion identified the following document as falling within the scope of your request:

- Consultations received by Europe Direct and reply to those consultations, 8 April 2019 – 24 July 2019, reference Ares(2019)5154301 (hereafter ‘document 1’).

In its initial reply of 8 August 2019, the Directorate-General for Employment, Social Affairs and Inclusion granted access to this document with only personal data redacted.

In your confirmatory application, you contest this position. In particular, you argue that the Directorate-General for Employment, Social Affairs and Inclusion did not provide you the document requested. You state that, I quote:

"There seems to be a letter from the European Commission provided by Europe Direct with reference <101000445226>, dated 20 June, it seems that it originates from the Directorate-General for Employment, Social Affairs and Inclusion [...]. I am interested in receiving the referred letter dated 20 June. Such letter seems to exist, because in the letter entitled "24 July, corrective reply email from EDCC", sent to the undersigned in the file GESTDEM 2019/4174, it is said that "the mail you received last 20 June was unfortunately sent by mistake and does not represent the position of the Commission"<sup>4</sup>.

Furthermore, you state that ‘the document is clearly of a public interest’ and you argue that no exception to the right of public access to documents applies to the case at hand.<sup>5</sup>

Please be informed that the European Commission does not hold any letter from the Directorate-General for Employment, Social Affairs and Inclusion dated 20 June 2019 and registered under reference <101000445226>.

However, in the broad sense of your request, the European Commission has identified an e-mail sent by Europe Direct on 20 June 2019, entitled ‘Europe Direct – 101000469975’ and registered under reference Ares(2019)5489691 (hereafter ‘document 2’).

## **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.

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<sup>4</sup> The original statement in Spanish reads as follows: "[p]arece que existe un escrito de la Comisión Europea remitido por Europe Direct, con referencia <101000445226>, de 20 de junio, parece que procedente de la Dirección General de Empleo, Asuntos Sociales e Inclusión, de la Comisión Europea [...]. Al que suscribe le interesa recibir el referido escrito de 20 de junio. Dicho escrito parece existir, pues en el escrito denominado "24 July, corrective reply email from EDCC", remitido al que suscribe en el expediente GESTDEM 2019/4174, se dice que: "El correo que usted recibió el pasado 20 de junio fue desafortunadamente enviado por error y no representa la posición de la Comisión".

<sup>5</sup> Your statement in Spanish language reads as follows: ‘El que suscribe considera que no es aplicable al presente caso ninguna excepción al derecho de acceso y que el documento es de evidente interés público’.

Following this review, I am pleased to inform you that access is granted to document 2.

The document concerns a reply from Europe Direct to a citizen's request registered under reference 101000445226. Please be informed that the information provided in that reply was erroneously regarded as the position of the Directorate-General for Employment, Social Affairs and Inclusion on the subject-matter at hand. Hence, as already indicated in the correspondence of Europe Direct dated 24 July 2019 (document 1), the information concerned does not represent the official position of the European Commission.

Please note that the parts of the document containing personal data such as the name, and surname(s) of a third party have been redacted as they fall outside the scope of your request.

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*

[Redacted signature block]

Enclosures: (1)