EUROPEAN COMMISSION

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House of Commons  
SW1A0AA London  
United Kingdom

DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE IMPLEMENTING RULES TO REGULATION (EC) NO 1049/2001

Subject: Your confirmatory application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2019/4823

Dear ,

I refer to your e-mail of 3 October 2019, registered on the same date, in which you submit 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 (hereafter ‘Regulation (EC) No 1049/2001’).

1. SCOPE OF YOUR APPLICATION

On 14 August 2019 you submitted the initial application for access to, I quote, ‘[…] all communications (including emails and minutes of meetings) between and the following individuals or their representatives: a) , b) , c) , d) , e) , f) , between May 1 2019 and today’.

Your initial application was attributed to the Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 of the TEU (hereafter ‘Task Force’) for handling and reply.

The European Commission identified the following documents as falling under the scope of your initial application:

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- Minutes of the meeting between  and  on 21 March 2019 (hereafter ‘document 2’);
- Letter dated 4 March 2019, from  to  (hereafter ‘document 3’),
- Letter dated 17 June 2019, from  to  (hereafter ‘document 5’);
- Minutes of the meeting between  and  on 19 July 2019, (hereafter ‘document 7’).

In its reply of 25 September 2019, the Task Force granted (wide) partial access to documents 1-7. The undisclosed parts of the documents contain personal data, which was redacted based on the exception in Article 4(1)(b) of Regulation (EC) No 1049/2001 (protection of privacy and the integrity of the individual).

You asked for the review of that position by submitting the confirmatory application on 3 October 2019. In that application, you point out that ‘[the European Commission] did not include [in its initial reply] documents relating to the arranging of the meetings ([…] such as communications with representatives of , , and ), […]’. Consequently, you requested that the European Commission verifies ‘[…] whether there were any emails or other communications that were covered by [your] request but not included in [the initial] response’.

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.

Following your confirmatory application, the European Commission has carried out a renewed, thorough search for document(s) requested. Following this renewed search, I confirm that the European Commission has not identified any such documents, other than those identified and disclosed at the initial stage.

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3 All document bear the same reference number.
4 Your initial application covers documents ‘between May 1 2019 and today’. Therefore, documents 1-4 fall outside its temporal scope. The Task Force, however, decided to identify them for the sake of completeness of the disclosed correspondence with  and given that, the meetings with  and  took place close to the requested temporal scope of your application.
Indeed, communications concerning various logistical aspects of the organization of the meetings in question were actually exchanged by the European Commission and the representatives of the persons concerned. Such communications were in the form of telephone calls or emails. In line with the document management policy of the European Commission, such exchanges, which exclusively deal with practical arrangements of the organization of meetings, are not recorded and maintained in the corporate system of registration of documents. Hence, no additional document corresponding to the scope of your request could be found.

In line with the provisions of Article 2(3) and Article 10 of Regulation (EC) No 1049/2001, the right of access guaranteed by that Regulation applies only to existing documents in possession of the institution concerned.

Article 2(3) of Regulation (EC) No 1049/2001 provides that ‘[t]his Regulation shall apply to all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union’.

Article 10(3) of the above-mentioned regulation provides that ‘[d]ocuments shall be supplied in an existing version and format […]’.

In the light of the above, given that the European Commission holds no documents in question (other than those identified and disclosed at the initial stage), it is not possible to handle your confirmatory application.

3. **Means of Redress**

Finally, I would like to draw your attention to the means of redress that are available against this decision, that is, judicial proceedings and complaints to 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,

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**CERTIFIED COPY**
For the Secretary-General,

EUROPEAN COMMISSION

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For the Commission