EUROPEAN COMMISSION

Brussels, 18.12.2019
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75007 Paris
France

DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹


Dear ,

I refer to your letter of 23 October 2019, registered on 24 October 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 documents² (hereafter ‘Regulation (EC) No 1049/2001’).

1. SCOPE OF YOUR REQUEST

In your initial applications addressed to the Directorate-General for Regional and Urban Policy, the Directorate-General for Employment, Social Affairs and Inclusion, the Directorate-General for Agriculture and rural development, and the European Commission’s Legal Service, registered on 12 September 2019, you requested, on behalf of Agrofert a.s, access to the following documents:

- ‘the draft version and the final version of the audit report ref. ARES (2019)3512694, drawn up in reference to audit No REGC414CZ0133, which was carried out between January 8th and February 15th, 2019 by the Directorate-General for Regional and Urban Policy (DG REGIO) and the Directorate-General

for Employment, Social Affairs and Inclusion (DG EMPL), including all annexes thereto;

- the draft version and the final version of the audit report drawn up in reference to the audit carried out in the beginning of 2019 by the Directorate-General for Agriculture and Rural Development (DG AGRI), including all annexes thereto;

- the Czech Republic’s observations on the draft reports, which the Commission has submitted to the Czech government for its opinion;

- all documents specifically referred to in one or both of the two aforementioned reports;

- any and all documents relating to the Commission’s enquiry on a potential conflict of interests in the granting of subsidies from European structural and investment funds to AGROFERT as part of the 2007-2013 and the 2014-2020 funding periods’.

The European Commission has identified, as falling under the scope of your request, documents pertaining to the file of audit proceedings REGC414CZ0133 and UMB/2019/003/CZ, including opinions from the legal service of the European Commission (hereafter ‘the requested documents’).

In its initial reply of 3 October 2019, the Directorate-General for Regional and Urban Policy, which replied in coordination with the Directorate-General for Employment, Social Affairs and Inclusion, the Directorate-General for Agriculture and Rural Development, and the Legal Service, refused access to these documents based on the exception of Article 4(2), third indent (protection of the purpose of inspections, investigations and audits) of Regulation (EC) No 1049/2001.

In your confirmatory application, you request a review of this position and you put forward a series of arguments in support of your request. These have been taken into account in my assessment, set out in the corresponding sections below.

In your letter, you also refer to Agrofert’s request, sent on 23 September 2019, for a meeting with competent Directorate-Generals of the European Commission. You also underline your interest in being informed about the content of the documents on legal basis other than Regulation (EC) No 1049/2001.

Please note that the scope of the present decision is circumscribed to the review of the initial reply to your request for access to documents under Regulation (EC) No 1049/2001.

As regards your request for a meeting, I would like to refer to the reply of the European Commission’s services dated 17 October 2019 (reference Ares(2019)6423552).
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 this review, I regret to inform you that I have to confirm the initial decision of the Directorate-General for Regional and Urban Policy to refuse access to the requested documents. The refusal is based on the exceptions of Article 4(2), third indent (protection of the purpose of inspections, investigations and audits), Article 4(1)(a), fourth indent (protection of the public interest as regards the financial policy of the European Union), Article 4(2), second indent (protection of the legal advice) and Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

The detailed reasons underpinning my decision are set out below.

**2.1. Protection of the purpose of inspections, investigations and audits**

Article 4(2), third indent of Regulation (EC) No 1049/2001 provides that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of […] the purpose of inspections, investigations and audits, […] unless there is an overriding public interest in disclosure.’

In your confirmatory application, you contest the applicability of the above-referred exception to the documents under the request. You argue that the initial reply was wrong in considering that the audit concerns ‘compliance of the Czech management and control systems with the (EU) regulatory framework’, as ‘it appears from the draft audit report that the real goal of the audits was […] the examination of subsidies granted exclusively to subsidiaries of the Agrofert group’. Furthermore, you argue that, I quote: ‘the on-site audit works […] are now finished; the requested documents have already been (at least partially) sent to the Czech authorities; and […] are partially in the public domain’.

At the outset, I would like to provide details on the legal basis and the aim of the audits to which the requested documents relate.

The European Commission has the power to carry out audits to verify that the control and management mechanisms implemented by Member States are adequate and to check whether there are any deficiencies concerning projects funded by the European Union.

Indeed, Article 75(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund (hereafter ‘Regulation (EU) No 1303/2013’)³, provides that

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'[t]he Commission shall satisfy itself, on the basis of available information, […] that the Member States have set up management and control systems that comply with this Regulation and the Fund-specific rules and that those systems function effectively during the implementation of programmes’.

Pursuant to Article 75(2) of Regulation (EU) No 1303/2013, ‘Commission officials or authorised Commission representatives may carry out on-the-spot audits or checks […]. The scope of such audits or checks may include, in particular, verification of the effective functioning of management and control systems in a programme or a part thereof, in operations and assessment of the sound financial management of operations or programmes’. Article 75(3) of the Regulation provides that ‘[t]he Commission may require a Member State to take the actions necessary to ensure the effective functioning of their management and control systems or the correctness of expenditure in accordance with the Fund-specific rules’.


Against this background, the European Commission launched audits on the compliance of the Czech management and control systems with the regulatory framework related to the measures to avoid conflict of interests. More specifically, the audits cover the management and control systems in place before the entry into force of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (hereafter ‘Regulation (EU, Euratom) 2018/1046’). The audits can also have an impact on actions/operations which would be approved after the entry into force of Regulation (EU, Euratom) 2018/1046.

Consequently, the audits, checks and their follow-up, envisaged by the above-mentioned rules, are audits in the sense of Article 4(2), third indent of Regulation (EC) No 1049/2001.

The requested documents form part of the administrative file of the audits in question. They contain detailed information on the timeframes, the scope and the methodology of the audit checks. They set out the preliminary conclusions of the investigations and the recommendations of the European Commission auditors. The file also includes legal opinions drafted by the Legal Service of the European Commission and intended for European Commission services responsible for the conduct of the audits.

Having regarded to the nature of the documents and the relevant legal framework, I am of the view that the disclosure of the requested documents would undermine the interest

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protected in Article 4(2), third indent of Regulation (EC) No 1049/2001 for the following reasons.

In its judgment in Case T-480/11 (Technion)\(^6\), the General Court considered that the exception of Article 4(2), third indent of Regulation (EC) No 1049/2001 applies if disclosure of the documents under the request may endanger the completion of inspections, investigations or audits. The General Court stated that ‘[t]he interest protected by that exception is the interest in allowing audits to be conducted independently and free of pressures, whether these come from the body being audited, from other interested bodies or from the general public’\(^7\).

In the above-referred judgment, the General Court also held that there is a general presumption that documents forming part of the administrative file of an audit can be considered as manifestly covered, in their entirety, by the exception referred to in Article 4(2), third indent of Regulation (EC) No 1049/2001, at least as long as the audit procedure is ongoing\(^8\). Indeed, according to the settled case-law, the institutions may base their decisions on general presumptions which apply to certain categories of documents, as similar general considerations are likely to apply to requests for disclosure relating to documents of the same nature.\(^9\)

I consider that the documents identified as falling within the scope of your request are manifestly covered, in their entirety, by the exception referred to in Article 4(2), third indent of Regulation (EC) No 1049/2001, as they form part of the administrative file of the above-referred audits.

Public access to the requested documents, which concern ongoing discussions with the Czech authorities, would be detrimental to the proper conduct of the audits in question. Indeed, it would compromise the smooth cooperation between the European Commission and the Czech authorities, which is an essential precondition for the effective fulfilment of the investigative tasks of the institution. It may lead to a reduced willingness, by the authorities of the Member State concerned, to participate constructively in ongoing and future audits concerning Union funds. Public release of the documents would jeopardise the purpose of the ongoing investigations by affecting the ability of the European Commission to conclude its audits effectively and to verify the appropriateness of relevant operations and the mechanisms for the prevention of conflicts of interests in the Member State concerned.

Moreover, I would like to draw your attention to the fact that the audits process is still ongoing. Indeed, the European Commission has opened the adversarial procedures involving exchanges with the Member State concerned, requesting that the national


\(^7\) Ibid, paragraph 63.

\(^8\) Ibid, paragraphs 55-65.

authorities clarify or validate the facts presented in the draft audit reports and express their agreement or disagreement with the draft findings.

Taking into account the additional information provided by the Member State, and in accordance with Article 75(2a) of Regulation (EU) No 1303/2013, the European Commission service’s final audit reports may request the Member State to implement proposed recommendation(s) and/or carry out corrective action(s). The European Commission will close the audits after the Member State has accepted and/or implemented the recommendations/actions proposed in the final audit reports. Where the Member State has not accepted or implemented the recommendation(s) and/or action(s) proposed, the European Commission can apply appropriate measures.

Consequently, the audits cannot be understood as being closed. The fact that parts of the documents have been circulated with the Czech authorities or the fact that the on-the spot checks are finalised, do not undermine this conclusion. Moreover, the General Court has clarified that the mere fact that documents, irrespective of their possible authenticity, have been disclosed unlawfully by a third party (such as journals and/or newspapers) does not justify, in itself, any derogation, in favour of the person who requests them, from the rules on confidentiality 10.

Given the ongoing nature of the audits and the sensitivity of the investigations, the disclosure of the documents requested would expose the auditors and the relevant European Commission departments to the foreseeable risk of coming under outside pressure, which would be detrimental to the proper conduct of the audits and undermine their effectiveness. It would also affect the European Commission’s capacity to carry out appropriate follow-up measures, if deemed necessary. I take the view that the purpose of such audits is best achieved through good cooperation and in bilateral discussions free from external pressure, notably when the subject of the inspections concerns the sensitive topic of potential shortcomings in the mechanisms for the prevention of conflict of interests in the allocation of European Union funds.

Consequently, I cannot agree with your argument that the proceedings would not be jeopardised if the documents under the request are made publicly available.

Against this background, there is a foreseeable and not purely hypothetical risk that a premature release of the requested documents would undermine the purpose of ongoing audits, which is, in this instance, to ensure that the management and control systems implemented by the Member State are functioning effectively and, ultimately, to protect the Union’s financial interests. Moreover, it would adversely affect the climate of mutual trust between the European Commission and the Member State, which is necessary at any stage of the discussions.

I conclude, therefore, that the requested documents are covered in their entirety by the exception laid down in Article 4(2), third indent of Regulation (EC) No 1049/2001 and that access must be denied on that basis.

2.2. Protection of the public interest as regards the financial policy of the European Union

Article 4(1)(a), fourth indent of Regulation (EC) No 1049/2001 provides that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] the public interest as regards [...] the financial, monetary and economic policy of the Community or a Member State’.

In its judgment in Case T-264/04 (WWF), the Court of First Instance considered that ‘the institutions enjoy a wide discretion when considering whether access to a document may undermine the public interest and, consequently, that the Court’s review of the legality of the institutions’ decisions refusing access to documents on the basis of the mandatory exceptions relating to the public interest must be limited to verifying whether the procedural rules and the duty to state reasons have been complied with, the facts have been accurately stated, and whether there has been a manifest error of assessment of the facts or a misuse of powers’.

The financial policy of the European Union relates closely to the proper management of Union funds. Indeed, an inadequate implementation of the European Structural and Investment Funds, or any irregularity in their management, would have the effect of prejudicing the budget of the European Union and, therefore, its financial interests.

The above-mentioned audits are one of the means to protect the financial interests of the European Union. Should the European Commission services detect a serious dysfunction in the Czech management and control systems, or serious irregularities in the financial management of the programmes and operations concerned, the European Commission may apply the necessary measures to ensure the proper use of the Union funds and protect the financial interests of the European Union.

Public access to the requested documents, which would undermine the purpose of the ongoing audits, would also undermine the financial interests of the European Union, as it would hamper the European Commission’s ability to address constructively possible shortcomings in the mechanisms in place to prevent conflict of interests in the Member State and apply appropriate corrective measures, where necessary.

In light of the above, there is a real and non-hypothetical risk that such premature disclosure would undermine the protection of the public interest as regards the financial policy of the European Union, notably with regard to the proper management of European Union funds.

Consequently, I consider that public disclosure of the requested documents is also prevented on the grounds of the protection of the public interest as regards the financial

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12 Currently the General Court.
13 WWF v Council judgment, cited above, paragraph 40.

2.3. Protection of legal advice

Article 4(2), second indent of Regulation (EC) No 1049/2001 provides that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: […] court proceedings and legal advice […] unless there is an overriding public interest in disclosure’.

In its judgment in Case T-84/03 (Turco)\(^{14}\), the Court of First Instance\(^{15}\) underlined that the exception provided for in Article 4(2), second indent of Regulation (EC) No 1049/2001 protects two distinct interests: court proceedings and legal advice\(^{16}\). In the case at hand, the legal opinions need to be withheld, in addition, based on the need to protect legal advice.

The concept of legal advice, as well as the applicability of the exception protecting it, have been interpreted by the European Union Courts. Indeed, in its judgment in Case T-755/14 (Herbert Smith Freehills)\(^{17}\), the General Court held that legal advice is ‘advice relating to a legal issue, regardless of the way in which that advice is given’\(^{18}\). The Court of Justice considers that the exception protecting legal advice must be construed as aiming to protect an institution's interest in seeking legal advice and receiving frank, objective and comprehensive advice\(^{19}\).

The documents concerned by your application include opinions drawn up by the Legal Service of the European Commission. The opinions contain detailed legal analysis of relevant provisions under Regulation (EU, Euratom) 2018/1046 and the preceding Financial Regulation (Regulation (EU, Euratom) No 966/2012\(^ {20}\)). They also contain internal legal considerations which are relevant for the ongoing inquiries into potential conflict of interests in the Czech Republic. The essential purpose of the legal opinions is to provide the European Commission and its departments with an informed opinion on legal questions in relation to the alleged conflict of interests.

Therefore, the above-referred opinions contain legal advice within the meaning of the second indent of Article 4(2) of Regulation (EC) No 1049/2001.

At this stage, the disclosure of those documents would have a serious impact on the European Commission's interest in seeking and receiving legal advice and on the Legal

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\(^{15}\) Currently the General Court.

\(^{16}\) Turco v Council, cited above, paragraph 65.


\(^{18}\) Ibid, paragraph 47.

\(^{19}\) Judgment of the Court of Justice of 1 July 2008, Kingdom of Sweden and Maurizio Turco v Council, C-39/05 P and C-52/05 P, EU:C:2008:374, paragraph 42.

Service's capacity to assist the European Commission in the assessment of this matter. Indeed, the documents in question contain legal analysis on the sensitive and complex subject matter of the ongoing investigations.

Moreover, the disclosure of such internal legal advice would reduce the institution’s margin of manoeuvre in the ongoing investigations. It would compromise the capacity of the institution to inform its decision-making process following the allegations on potential conflict of interests, and decide on the appropriate steps based on this information. Ultimately, it would deprive the institution of an essential tool for the proper performance of its duties. Given the sensitive subject matter of the investigations and the ongoing nature of the decision-making process, I consider that the risk of harm to the protected interest is reasonably foreseeable and not purely hypothetical.

I would like to underline that the legal advice in question was drawn up as part of the purely administrative functions of the European Commission and does not relate to a legislative proposal. As acknowledged by the General Court, the interest of the public in obtaining access to a document is not the same where the document relates to an administrative procedure as it is where the document relates to a procedure in which the institution in question acts in its capacity as legislator.21

In view of the above, I consider that public disclosure of the legal opinions is also prevented on the grounds of the protection of legal advice, based on the exception of Article 4(2), second indent of Regulation (EC) No 1049/2001.

2.4. Protection of privacy and the integrity of the individual

Article 4(1)(b) of Regulation (EC) No 1049/2001 provides that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of […] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data’.

In its judgment in Case C-28/08 P (Bavarian Lager)22, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data23 (hereafter ‘Regulation (EC) No 45/2001’) becomes fully applicable.

Please note that, as from 11 December 2018, Regulation (EC) No 45/2001 has been repealed by 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

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However, the case law issued with regard to Regulation (EC) No 45/2001 remains relevant for the interpretation of Regulation (EU) 2018/1725.

In the above-mentioned judgment, the Court stated that Article 4(1)(b) of Regulation (EC) No 1049/2001 ‘requires that any undermining of privacy and the integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, and in particular with […] [the Data Protection] Regulation’ \(^{25}\).

Article 3(1) of Regulation (EU) 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person […]’.

As the Court of Justice confirmed in Case C-465/00 (Rechnungshof), ‘there is no reason of principle to justify excluding activities of a professional […] nature from the notion of private life’ \(^{26}\).

The documents which you seek to obtain contain personal data such as the names, surnames and handwritten signatures of persons who do not form part of the senior management of the European Commission. They also contain personal data from third parties, including the name of representatives of private companies.

The names\(^{27}\) of the persons concerned as well as other data from which their identity can be deduced undoubtedly constitute personal data in the meaning of Article 3(1) of Regulation (EU) 2018/1725.

Pursuant to Article 9(1)(b) of Regulation (EU) 2018/1725, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if [t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests’.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

In Case C-615/13 P (ClientEarth), the Court of Justice ruled that the institution does not have to examine by itself the existence of a need for transferring personal data \(^{28}\). This is


\(^{25}\) European Commission v The Bavarian Lager judgment, cited above, paragraph 59.

\(^{26}\) Judgment of the Court of Justice of 20 May 2003, Rechnungshof and Others v Österreichischer Rundfunk, Joined Cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

\(^{27}\) European Commission v The Bavarian Lager judgment, cited above, paragraph 68.
also clear from Article 9(1)(b) of Regulation (EU) 2018/1725, which requires that the necessity to have the personal data transmitted must be established by the recipient.

According to Article 9(1)(b) of Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for the lawful processing of personal data only if the first condition is fulfilled, namely if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your confirmatory application, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subjects’ legitimate interests might be prejudiced.

Notwithstanding the above, there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by the disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

As to the handwritten signatures appearing in the requested documents, which constitute biometric data, there is a risk that their disclosure would prejudice the legitimate interest of the persons concerned.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, 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 the disclosure of the personal data concerned.

3. **OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

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

According to the case-law, the applicant must, on the one hand, demonstrate the existence of a public interest likely to prevail over the reasons justifying the refusal of the documents concerned and, on the other hand, demonstrate precisely in what way disclosure of the documents would contribute to assuring protection of that public

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interest to the extent that the principle of transparency takes precedence over the protection of the interests which motivated the refusal.\textsuperscript{29}

Having carefully analysed the arguments that you put forward in your confirmatory request, I consider that they do not point to a public interest in the file, as your interest in obtaining the requested documents is private in nature and it cannot be understood as an overriding public interest in the sense of Regulation (EC) No 1049/2001.

Moreover, as the Directorate-General for Regional and Urban policy noted in its initial decision, the audits involve exchanges between the Member State concerned and the European Commission. It does not concern exchanges with Agrofert a.s.

Please note that I have carried out an assessment on the possible existence of an overriding public interest in disclosure of the documents which you seek to obtain. However, I have not been able to identify any public interest capable of overriding the public interest in ensuring that the ongoing audits are properly conducted, and that the control systems in the Member State are fully aligned with the required European Union standards. As explained in section 2.1 above, the public interest is best served by allowing the European Commission to complete the audits in smooth cooperation with the Member State concerned.

I would like to stress that the requested documents relate to an administrative procedure and not to any legislative act, for which the Court of Justice has acknowledged the existence of wider openness\textsuperscript{30}. The General Court confirmed this jurisprudence in its judgment in Case T-476/12 (St. Gobain Glass)\textsuperscript{31} stressing the serenity of administrative proceedings and the need to protect administrative procedures from external pressure.

I would like to note that, in its inquiry in case 721/2019/MIG\textsuperscript{32}, the European Ombudsman considered that the European Commission was right to refuse access to documents pertaining to the file of the present audits. In the European Ombudsman’s view, given the content of the documents concerned, ‘the public interest is best served by allowing the Commission to complete the audits. By doing so, the Commission may be able to obtain more information on the existence, if any, of potential conflicts of interest’.

Please note also that the requested documents are also protected under Articles 4(1)(a), fourth indent, and 4(1)(b) of Regulation (EC) No 1049/2001, which do not include the possibility for the exceptions defined therein to be set aside by an overriding public interest.


\textsuperscript{30} Commission v TGI judgment, cited above, paragraphs 53-55 and 60; Commission v Bavarian Lager judgment, cited above, paragraphs 56-57 and 63.


4. **Partial Access**

In accordance with Article 4(6) of Regulation (EC) No 1049/2001, I have considered the possibility of granting (further) partial access to the documents requested.

In your confirmatory application you state that ‘the institution concerned must demonstrate, on a case-by-case basis (i.e. for each of the documents requested), that the disclosure of the requested documents would endanger the completion of the audits in question’.

However, as stated by the Court of Justice, where the document requested is covered by a general presumption of non-disclosure, such document does not fall within an obligation of disclosure, in full, or in part 33.

Consequently, as explained above, I have come to the conclusion that the documents are covered in their entirety by the invoked exceptions to the right of public access.

5. **Means of Redress**

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,

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