



**EUROPEAN COMMISSION
SECRETARIAT-GENERAL**

The Secretary General

Brussels, 27.03.2014
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Mr Aris Kolimatsis

By email only:
ask+request-921-1d0577ab@asktheeu.org

**Subject: Confirmatory application for access to a Commission document
reference - GestDem 2013/5265**

Dear Mr Kolimatsis,

I refer to your e-mail of 5 December 2013, registered on 14 January 2014, in which you lodged a confirmatory application, pursuant to Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents¹.

In your initial application of 23 October 2013, you requested access to the following documents regarding the Schengen Information system (SIS II):

- 1. The documents concerning SIS II that were submitted to the Data Protection Officer (hereafter the DPO) via the online notification system; of article 11 of Decision 597/2008, including all annexes and appendices thereto. The documents directly relate to the SIS II prior notification of article 25 of Regulation No 45/2001.*
- 2. Inasmuch they are distinct from the documents under (1) above, the DG HOME drafted documents concerning SIS II that were submitted to the DPO as the SIS II prior notification; and entered in the register of processing operations of article 4 of Decision 597/2008, including all annexes and appendices thereto.*
- 3. Notwithstanding requests #1 and #2 above, the detailed questionnaire the SIS II data controller filled in and dispatched to the DPO, including all annexes and appendices thereto. It is expected that the questionnaire will be similar to the DG RTD DPO-3398.1 questionnaire, Annex 1 of Ares(2011)475763 - 02/05/2011.*

¹ OJ L145, 31.05.2001, p.43.

4. The documents drawn up by the DG HOME Data Protection Coordinator about SIS II.

5. The documents the SIS II data controller addressed to the DPO about SIS II - if any, and not falling under the requests #1 - #4.

6. Any internal documents drawn up by DG HOME, including the SIS II data controller, with guidelines, recommendations, policies, or equivalent, regarding how DG HOME would respond to data subjects requests pursuant to articles 13 to 18 of Regulation No 45/2001.

7. The DG HOME internal documents - if any - about any kind of DG HOME internal; audit of SIS II similar to the EDPS audits provided in article 45(2) Regulation No 1987/2006. The DG HOME internal audit refers to any such auditing activity that is similar to that of the EDPS, which was conducted by DG HOME, or another Directorate(s)-General, including the DPO.

In its reply of 15 November 2013 the Directorate General for Home Affairs (hereafter DG HOME) stated that:

- No documents had been found falling under the scope of your request for points 1 to 5 and 7.
- It had identified a document corresponding to point 6, to which it granted full access.

In your confirmatory application you challenge whether of the search carried out by DG HOME was adequate and request a review of the initial reply for every single point of your initial application.

Against this background and upon our request, the Commission services have carried out a renewed search of the documents concerned. After the latter, I can confirm that:

- No other documents exist concerning your initial request

Furthermore, DG HOME stresses that it is not obliged to make the requested notifications as the Commission is not processing data in SIS II for the purpose of Regulation (EC) No 45/2001. The Commission is not operating the SIS II central system as it was entrusted to EU-LISA pursuant to the SIS II instruments. The national components are operated by Member States which are the data owner. Neither the Commission nor EU-LISA have access to data in SIS II. Its specific data protection regime falls under the joint supervision of the national data protection authorities and the European Data Protection Supervisor.

Therefore, I regret to inform you that your confirmatory application is devoid of purpose. Indeed, a confirmatory application is a request to review a position by which access to one or more documents has been fully or partially denied. This is not the case with regard to your request.

Yours sincerely,

A handwritten signature in cursive script, reading "Catherine Day". The signature is written in dark ink and is positioned to the right of the "Yours sincerely," text.

Catherine Day