



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
The Director-General

Brussels,
TAXUD/GT/Svdv –
taxud.e.2(2021)4386220

Mr Kurt Demeyere
Arteo Law
Goedheidsstraat 5
BE – 1000 Brussel

[ask+request-9631-
fbb5334e@asktheeu.org](mailto:ask+request-9631-fbb5334e@asktheeu.org)

(via e-mail and registered mail)

Dear Mr Demeyere,

Subject: Your application for access to documents – Ref GestDem No 2021/3870

We refer to your e-mail dated 14 June in which you make a request for access to documents, registered under the above-mentioned reference number.

You ask for access to: “... *re procedure INFR(2020)4000*:

- *the letter of formal notice of the European Commission of 30 October 2020 to Belgium requesting it to change its rules under which Belgian life insurance companies are effectively exempt or almost fully exempt from tax on income from dividends, interest and real estate, including capital gains;*
- *the official answer of the Belgian state, as sent on 28 February 2021 to the European Commission”.*

Following the examination under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your applications cannot be granted, as disclosure is prevented by an exception to the right of access laid down in Article 4 of that Regulation.

The documents, which you seek to obtain, relate to an ongoing investigation regarding a possible infringement of EU law. In order to perform efficiently its task as “guardian of the Treaties”, the European Commission should be able to carry out its investigations whilst preserving a climate of mutual confidence with the Member State concerned. Such a climate is necessary to foster an amicable resolution of the dispute between the

European Commission and the Member State by a voluntary compliance of the latter with Treaty requirements. At this delicate stage of the procedure, publicity of the document you have requested would be premature and would have the effect of jeopardising a friendly settlement of the dispute. This requirement of confidentiality remains even after the matter has been brought before the Court of Justice. The Court has consistently confirmed this position in its judgements¹.

Disclosure of the requested documents would undermine the protection of the purpose of investigations, in accordance with the third indent of Article 4, paragraph 2 of Regulation 1049/2001 which states that "*the 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*".

We have considered whether partial access could be granted to the requested documents. However, partial access is not possible given the fact that these documents are entirely covered by the exception under Regulation 1049/2001 mentioned above.

Please note further that there is no overriding public interest in disclosure of the document which would outweigh the need to protect the purpose of inspections, investigations and audits.

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

or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

(e-signed)

Gerassimos THOMAS

¹ See for example judgement of 11.12.2001 in case T-191/99 (*Petrie vs Commission*)