



## EUROPEAN COMMISSION

Regulatory Scrutiny Board  
The Chair

Brussels  
SG.A.2

**Subject: Your request under Regulation (EC) No 1049/2001<sup>1</sup> regarding public access to European Parliament, Council and Commission documents – Ref GESTDEM 2021/7914**

Dear Ms Gualandi,

We refer to your message dated 07/12/2021 in which you make a request for access to documents, registered under the above-mentioned reference number.

You have requested the “two regulatory scrutiny board’s opinions repeatedly rejecting the DG JUST’s draft proposal for a directive on sustainable corporate governance”.

The role of the Regulatory Scrutiny Board, as defined in its mandate, is to scrutinise the quality of impact assessments ensuring that they reflect a well-justified problem, real alternative options and a comprehensive analysis of impacts reflecting costs and benefits of the preferred option. The Board’s scrutiny concerns only the draft impact assessment, not the legislative proposal. The Board takes no view on the political decision, which is taken by the College, informed by an evidence-based impact assessment.

Regarding the requested opinions of the Board (ARES references 2021/3065513 and 2021/7290822), having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4 of this Regulation.

The documents, which you seek to obtain, relate to a decision, which has not yet been taken by the Commission. As a standard practice, these documents will be published along with the final proposal if and when the Commission decides to adopt it. In this specific case, the Regulatory Scrutiny Board has given recommendations for a significant redrafting of the impact assessment. The latter is therefore still subject to extensive discussions between the Commission services. Releasing the Regulatory Scrutiny Board opinions on this impact assessment at this stage would reflect preliminary views and policy options currently under discussion and development. Services in the Commission are working on the file to address the concerns exposed by the Board and they must be free to explore all possible options in preparation of a decision free from external

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<sup>1</sup> OJ L145, 31.05.2001, page 43.

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pressure. Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to this document.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

We have also considered whether partial access could be granted to the documents requested. We concluded that giving partial access to the documents would not be meaningful in light of the nature of the documents. Redacting sensitive parts of these documents would leave little substance to the documents requested.

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  
Secretary-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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

Veronica Gaffey