



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate D: Security
Unit D.3 : Police Cooperation

Brussels, **20. 11. 2015**
Home.d.3(2015)5820479

Bits of Freedom
Rejo Zenger
Bickersgracht 208
1013 LH AMSTERDAM
Netherlands

By registered letter with acknowledgment of receipt
Advance copy by email : ask+request-2220-5f3935e8@asktheeu.org

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2015/4828

We refer to your e-mail dated 11/09/2015 in which you make a request for access to documents, registered on 14/09/2015 under the above mentioned reference number.

You request access to documents which contain information about the infringement proceedings from 2011 against the member states which had not implemented yet the Data Retention Directive (2006/24/EC): Czech Republic (infringement procedure 2011/1143), Germany (infringement procedure 2011/2091), Romania (infringement procedure 2011/2089) and Sweden (infringement procedure 2007/1181).

Given that your application concerns a large number of documents we were unfortunately not in the position to complete the handling of your application and to process all the documents requested. We will provide you the documents requested by sets, as soon as they are processed.

For the time being, we disclose the documents listed in the annex.

Some of the documents to which you have requested access contain personal data.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its 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. The applicable legislation in this field is 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 data¹.

¹ Official Journal L 8 of 12.1.2001, p. 1

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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 unit SG-B-4
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Victoria Amici
Head of Unit

Enclosure: List of documents

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.