



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Director-General

Brussels,  
CONNECT/I2/VD/hz (2016) 6102444

***By registered letter with  
acknowledgment of receipt***

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**Subject: Your application for access to documents – Ref GestDem No 2016/4441**

Dear Sir,

I refer to your e-mail dated 01/08/2016 in which you make a request for access to documents, registered on 08/08/2016 under the above mentioned reference number. We also refer to our holding reply of 19/08/2016 concerning the extension of the deadline.

You filed a confirmatory application to the Secretariat General of the Commission on 14/09/2016, which is handled over there under the same reference number.

A further reply (Ares (2016)5487394) was sent to you the 21/09/2016 to explain you the reason of our delay in replying and to apologize.

Your application concerns: *"any document that relates to an ancillary copyright ("Leistungsschutzrecht" für Presseverleger), both referring to existing or proposed laws in EU Member states as well as any information relating to the introduction of such right into EU legislation". You are "especially but not exclusively looking for information in the form of proposals, memos, studies, notes, meeting records, letters to Commissioner Oettinger and Cabinet staff members dealing with EU copyright and the protection of press publishers by application or amendment of EU copyright law".*

On a preliminary basis, I would like to inform you that a public consultation on the role of publishers in the copyright value chain and on the 'panorama exception' took place from 15/03/2016 to 15/06/2016. All the contributions to this consultation, which may be of interest with regard to your request, are now available on our website:

<https://ec.europa.eu/digital-single-market/en/news/public-consultation-role-publishers-copyright-value-chain-and-panorama-exception>.

I also draw your attention to the Impact Assessment on the modernisation of EU copyright rules which has been published this 14/09/2016. It includes information that may be of interest with regard to your request and is available on our website:

<https://ec.europa.eu/digital-single-market/en/news/impact-assessment-modernisation-eu-copyright-rules>

I consider your request to cover documents from 20/07/2015 till the date of your initial application (i.e. 08/08/2016).

### **Documents contained in Annex I**

Having examined this request under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that the documents included in Annex I may be fully disclosed.

### **Documents contained in Annex II**

Annex II contains a series of documents and extracts which fall under the scope of your request. After examining them under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents I have come to the conclusion that they may be partially disclosed.

Some parts of the documents have been blanked out as I believe their disclosure is prevented by the exception to the right of access laid down in Article 4(1)(b) of the above Regulation: these deleted parts of the documents contain personal data whose 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.

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 data<sup>1</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>2</sup>. According to Article 8(b) of that 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.

I 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.

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<sup>1</sup> Official Journal L 8, 12.1.2001, p. 1.

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

### **Documents contained in Annex III**

Annex III contains documents and letters that originate from third parties. In accordance with Article 4(4) of Regulation 1049/2001, we are in the process of consulting the senders of these documents. Based on their answer and after assessing whether an exception is applicable, we may be able to grant you access to them. You will receive a reply to this part of your request as soon as possible.

### **Documents contained in Annex IV**

Annex IV includes Commission's documents, which disclosure cannot be granted as exceptions to the right of access laid down in Article 4 of this Regulation apply.

Regarding those documents, I consider their disclosure would seriously undermine the decision making process (Article 4(3) of Regulation 1049/2001) in the context of the current ongoing negotiations in the legislative process as to the copyright legislative proposals adopted by the Commission on 14/09/2016.

I have considered whether partial access could be granted to these documents. However, this has not been possible as I consider that they are entirely covered by the exception.

The exception laid down in Article 4(3) of Regulation 1049/2001 applies unless there is an overriding public interest in disclosure of the documents.

Having considered this, I have concluded that the public interest in making the content of the documents public does not outweigh the harm that their disclosure would cause to the interests protected by the invoked exceptions. The larger debate regarding the copyright framework is public. The European Commission participates on a regular basis in public debates, discussions with the Members of the European Parliament and replies to citizens' questions as well as to oral and written questions from the European Parliament. I therefore take the view that there is the required transparency at this stage to meet the public interest in this debate.

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

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

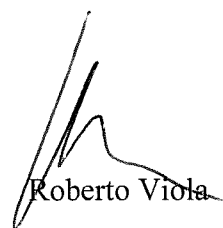
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B-1049 Brussels

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

In view of your already submitted confirmatory application to the Secretariat General, the latter is notified of this reply.

Yours faithfully,



Roberto Viola

Contact: [CNECT-I2@ec.europa.eu](mailto:CNECT-I2@ec.europa.eu)