



## EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Industrial Transformation and Advanced Value Chains  
Automotive and Mobility Industries  
Head of Unit

Brussels, 19. 10. 2016  
GROW C4/SPR/cdp  
(2016)6522992

Mr Peter Teffer  
Rue Montoyer 18B  
1000 Brussels  
Belgium

*Sent by email only:*  
*ask+request-3324-*  
*260915b0@asktheeu.org*

**Subject: Requests for access to documents – GESTDEM No. 2016/5420**

Dear Mr Teffer,

Thank you for your e-mail dated 23 September 2016 which was registered at the Internal Market, Industry, Entrepreneurship and SMEs Directorate-General of the European Commission on 28 September 2016, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

### 1. SCOPE OF YOUR REQUEST

Your e-mail requested access to documents falling under the following scope:

*"- A list of which member states have notified to the European Commission the implementation of the provisions on penalties, as required by article 11 of regulation 595/2009 of 18 June 2009*

*- The content of all member states' notifications of the provisions on penalties, as required by article 11 of regulation 595/2009 of 18 June 2009*

*- The content of any communication from the European Commission to member states about the provisions on penalties from article 11 of the same regulation."*

### 2. DESCRIPTION OF DOCUMENTS IDENTIFIED

I would like to inform you that most Member States have not communicated their national rules to the Commission separately under article 11 of Regulation 595/2009. We have identified such a notification from Denmark only.

With a note dated from 12 February 2013 to the attention of the members of the Technical Committee of Motor Vehicles (TCMV), the Commission services requested Member States to notify their national measures implementing the obligations in Article 46 of Directive 2007/46/EC and in various Regulations, including in Article 11 of Regulation (EC) No 595/2009. A reply has been received from 18 Member States.

Eight of these replies include information on the national measures implementing Article 11 of Regulation (EC) No 595/2009 and thus fall under the scope of your request.

However, these eight replies also fall under the scope of your previous requests GestDem 2016/1933 and GestDem 2016/1938 and have been disclosed in the context of those requests. Thus we are not enclosing them with the present reply.

All the documents mentioned above are listed in the enclosed document register.

### **3. DISCLOSURE OF THE REQUESTED DOCUMENTS**

Access is granted to two documents.

Document 2 originates from the European Commission. You may reuse the document free of charge for non-commercial and commercial purposes provided that the source is acknowledged, and that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

Document 1 originates from a third party. I can confirm that DG Internal Market, Industry, Entrepreneurship and SMEs has consulted according to Article 4, paragraph 4 of Regulation 1049/2001 the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, and has obtained their permission to release the document.

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The documents being released 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 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 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.

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

<sup>2</sup> 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.

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

Yours sincerely,



Joanna Szychowska

Annexes: Document register  
2 documents