



Council of the European Union
General Secretariat

Directorate-General Communication and Information
The Director-General

SGS17/08634

Brussels, 12 -10- 2017

Mr Domenic Be
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Subject: confirmatory application No 18/c/01/2017

Dear Sir,

Please find enclosed the reply from the Council to the confirmatory application you introduced on 2 September 2017.

Statutory remedy notice

Pursuant to Article 8(1) of Regulation (EC) No 1049/2001, we draw your attention to the possibility to institute proceedings against the Council before the General Court¹ or to make a complaint to the Ombudsman². The conditions for doing so are laid down in Articles 263 and 228 of the Treaty on the Functioning of the European Union respectively.

Yours sincerely,



Reijo KEMPPINEN

¹ For deadlines and other procedural requirements concerning the institution of proceedings at the General Court, please refer to the following page: http://curia.europa.eu/jcms/jcms/Jo2_7040/en/

² Any complaint to the Ombudsman must be made within two years of receiving the institution's final position on the matter. The Ombudsman's online complaint form is available at: <https://secure.ombudsman.europa.eu/en/atyourservice/secured/complaintform.faces>

**REPLY ADOPTED BY THE COUNCIL ON 12 OCTOBER 2017
TO CONFIRMATORY APPLICATION 18/c/01/17,
made by email on 2 September 2017,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to documents concerning "disenfranchisement"**

The Council has considered this confirmatory application under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43) (hereafter "Regulation No 1049/2001") and Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, Official Journal L 325, 11.12.2009, p. 35) and has come to the following conclusion:

1. On 9 May 2017, the applicant asked for public access to Council documents containing "any information [held] which identifies Council of the EU policy/ies on disenfranchisement" and providing a broad definition of the latter concept.
2. On 12 May 2017, the General Secretariat replied, informing the applicant that his application was not sufficiently precise to be treated under Regulation No 1049/2001, but in order to assist provided him with a result list from a full text search for the word "disenfranchisement".
3. On 15 June 2017, the applicant asked for the documents on that list bearing the title "Disenfranchisement of EU citizens".
4. On 22 June 2017, the General Secretariat sent these documents to the applicant.
5. On 25 July 2017, the applicant again wrote to the General Secretariat, considering that it had not addressed his query. He went on to clarify that "disenfranchisement" covered the right to vote but went beyond that.

6. On 28 July 2017, the General Secretariat replied to the applicant, confirming that his application still was not precise enough to be treated, but offering further assistance in searching for relevant documents
7. On 2 September 2017, the applicant made a confirmatory application, declaring himself dissatisfied with this reply.

Admissibility of the confirmatory application

8. The Council first of all examined whether the confirmatory application was submitted to it within the time limit established by Article 7(2) of the Regulation (which is 15 working days from the receipt of the GSC reply). It is a fact that the reply of the GSC to the initial application was sent by the GSC via e-mail to the two email addresses, given by the applicant himself, on 28 July 2017, on which day it was also published at the "Ask the EU" page. The GSC received no notification of any "non-delivery" problem (which is normally generated automatically by the recipient IT system if the sent email cannot be delivered for whatever reason) concerning the fact whether the applicant duly received its reply. Since the last day of the 15-day deadline was 21 August 2017, while the applicant sent his confirmatory application only on 2 September 2017, his confirmatory application must be declared as inadmissible based on missing the statutory deadline in this respect.

Conclusion

9. The confirmatory application is inadmissible.
 10. The Council would however like to mention, that the applicant's initial application already was not specific enough to conform to Article 6(1) of Regulation No 1049/2001. Furthermore, the General Secretariat duly offered its assistance as required by Article 6(2) of that Regulation.
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