

# EUROPEAN EXTERNAL ACTION SERVICE



AFFGEN.2  
Head of Division

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Ms Luisa Izuzquiza  
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*Subject: Your request for access to documents of 2 January 2018*  
*Our ref: 2018/004*

Dear Ms Izuzquiza,

I refer to your email dated 2 January 2018, in which you make a request for:

*"All text messages (i.e., SMS messages) and other mobile-phone-based text communications (e.g., WhatsApp, Telegram, iMessage, Facebook Chat, SnapChat, Slack, Facebook and Twitter "direct messages," Signal Messenger, Wire, etc.) sent by – or on behalf of – EU Commissioner Federica Mogherini addressed or "CC'd" to her Head of Cabinet Fabrizia Panzetti, from 1 September 2017 to 31 October 2017 inclusive, on work-specific devices operated by or otherwise under the control of Commissioner Mogherini."*

Please note that Article 36 of 'Regulation (EC) n°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' requires institutions to ensure the confidentiality of communication by means of telecommunications networks. Also, Article 7 of the Charter of Fundamental Rights ensures the right to respect for one's communications, and mobile phone based text communications are included within the scope of this Article.

Thus, mobile phone based text communications sent out or received in a private or professional context cannot generally be considered as "documents" drawn up or received by an institution and in its possession, within the meaning of Article 3(a) of Regulation (EC) 1049/2001<sup>1</sup>.

Your request (under reference 2018/004) does not therefore fall under the scope of Regulation (EC) 1049/2001.

Yours sincerely,

Gabriele Visentin

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<sup>1</sup> Official Journal L 145 of 31.5.2001, p. 43