Brussels, 25.4.2018
C(2018) 2651 final

Mr Eric DUMONT
c/o Dartois
Parvis Notre-Dame, 11
1020 Brussels
Belgium

DEcision of the Secretary-General on behalf of the European Commission purseuant to Article 4 of the Implementing Rules to Regulation (EC) N°1049/2001

Subject: Your confirmatory application for access to documents – GESTDEM 2018/416

Dear Mr Dumont,

I am writing in reference to your email of 11 February 2018, registered on the following day, by which you lodge a confirmatory application in accordance with Article 7(2) of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents (hereafter ‘Regulation 1049/2001’).

Through your initial application of 16 January 2018, you requested access to the following documents:

1. The Agenda of the meeting between President Juncker and Austrian Chancellor Kurz on 19 December 2017; and

2. Any correspondence between President Juncker and Austrian Chancellor Kurz in regard to the newly sworn-in Austrian Chancellor (congratulatory letter, reply from Austria, etc.).

2 Official Journal L 145 of 31.05.2001, p. 43.
By letter of 8 February 2018, the Secretariat-General informed you that it identified one document as falling within the scope of your request. It also provided the link to the livestream press conference, which the President Juncker and the Austrian Chancellor gave on 19 December 2017.

In your confirmatory application, you requested a review of this position. As your confirmatory application was not sufficiently precise, we requested, pursuant to Article 6(2) of Regulation 1049/2001, that you clarify whether your confirmatory application referred to the same meeting and concerned the same documents as your initial application.

In your clarification email of 28 March 2018, you explained that, in your confirmatory application, you requested access to the reply of the Austrian Chancellor to the initial congratulatory letter of President Juncker.

Against this background, the European Commission has carried out a renewed, thorough search for the documents requested. Following this renewed search, I confirm that the Commission does not hold any documents that would correspond to the description given in your confirmatory application. Indeed, the Commission did not receive a reply from the new Austrian Chancellor to the congratulatory letter of President Juncker.

As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that the European Commission does not hold any further documents corresponding to the description given in your application, it is not in a position to handle your request.

In your clarification email, you also alternatively requested access to the reply of the new Austrian government to the initial congratulatory letter of President Juncker. As this was not part of your initial request under GestDem Reference Number 2018/416, it constitutes a new initial request, which was registered under GestDem Reference Number 2018/1903 and to which the Secretariat-General has sent you a separate (initial) reply (with Reference Number Ares(2018)2065544).

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the
European Ombudsman under the conditions specified respectively in Article 263 and Article 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

For the Commission
Martin SELMAYR
Secretary-General

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION