



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate A: Strategy and General Affairs
Unit A.2: Legal Affairs

Brussels,
HOME.A.2/ac

Luisa Izuzquiza
Calle Cava de San Miguel 8
4ºcentro 28005 Madrid
Spain

e-mail: ask request-5102-
04fec600@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2018/988

Dear Madam,

We refer to your e-mail dated 30/01/2018 in which you make a request for access to documents, registered on 14/02/2018 under the above-mentioned reference number.

You request access to:

1. *'all data on the handling of access to documents requests by DG HOME for the years 2012-2017, both inclusive. If the data for the year 2017 is currently being processed and is therefore not yet ready for publication, then the data for the years 2012-2016 should do.'*
2. *'a broken down version of the statistics already published in the European Commission's annual reports on public access to documents and its annexes, i.e.: the background numbers to the summarized information those reports contain.'*
3. *'more detailed information on the application of exceptions in case of partial access or refusal'.*

The information requested under point 1 appears in a public document released in the context of a former request for access to documents (gestdem 2016/4919) to the European Commission. We refer you to the pages 56-61 of the document released (reference Ares(2016)6009385, Presentation HOME on access to documents – annex 19 attached), covering data for the years 2013-2016.

Moreover, we identified a document dated 2017 (Ares(2018)1679105- annex 20), more up to date than the one here above referred to and giving the information about full data of the year 2016. Please find this document attached.

As far as your request under point 2 is concerned, please find below a public available version of the European Commission's annual reports on public access to documents: https://ec.europa.eu/info/publications/reports-public-access-european-parliament-council-and-commission-documents_en. These documents give a lot of information about requests to the European Commission for access to documents, but no direct information about such requests dealt with by Directorate General Home Affairs and migration.

Finally, as far as point 3 of your request is concerned we bring your attention to the fact that the Commission released documents containing this information in the framework of a former request for access to documents (reference gestdem 2016/4880). Please find these documents attached (annexes 1-18 - reference Ares(2016)5416325).

Having analysed the content of the above-mentioned documents (points 1 and 3), I am pleased to inform you that full access is granted to documents 8, 16 and 18. With regard to documents 1 -7 and 17, wide partial access is granted with only personal data redacted on the basis of the exception in Article 4(1)(b) of Regulation 1049/2001 (protection of privacy and the integrity of the individual).

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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing a version of the documents requested in which these personal data have been redacted.

In case you would disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, 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:

¹ Official Journal L 8 of 12.1.2001, p. 1

² 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.

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/288
B-1049 Bruxelles or by email to: sg-acc-doc@ec.europa.eu

You may reuse the documents requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged, 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.

Yours sincerely,

[e-signed]
Dimitrios GIOTAKOS
Head of Unit

Enclosures: 20

1. Guidance note regarding handling of applications for public access to documents, ref.: Ares(2011)69210, with an annex (quality checklist for initial replies),
2. Guidance note regarding the level of signature of partially negative initial replies, ref.: Ares(2014)3950212
3. Guidance note regarding document management and access to documents, ref.: Ares(2015)182108 with two annexes: (a) guidelines and (b) examples of registration criteria,
4. Guidance note regarding wide-scope initial requests for access to documents under Regulation 1049/2001, ref.: Ares(2015)3538285,
5. Guidance note regarding processing of requests under Regulation 1049/2001 for public access to archived documents of former Commissioners and their Cabinets, ref.: Ares(2015)5517046,
6. Procedural steps in the handling of confirmatory applications,
7. Documents in the Historical Archives, ref.: Ares(2010)223995.
8. Instruction entitled *What should I do when I receive an application for access to documents?*
9. Summary fiche entitled *Access to databases*,
10. Summary fiche entitled *Access to documents from third parties*,

11. Summary fiche entitled *Access to documents of the Members of the Commission/Cabinets*,
12. Summary fiche entitled *Access to documents and the EP-Commission Framework Agreement*,
13. Newsletter regarding obligation of the applicant to provide valid postal address,
14. Newsletter regarding documents emanating from Member States' delegations, ref.: Ares(2015) 1004801,
15. Newsletter regarding documents emanating from Members of the Parliament (MEPs),
16. Newsletter regarding access to documents held by (Commission's) delegations,
17. Newsletter relating to consultation of Member States - Ref.: Ares(2016)973353,
18. Newsletter regarding requests by consulted third parties to know the name of the applicant under regulation 1049/2001, ref.: Ares(2016)10699375,
19. Ares(2016)6009385 - Presentation HOME on access to documents,
20. Ares(2018)1679105 - information DG HOME containing full data of the year 2016.