



## EUROPEAN COMMISSION

LEGAL SERVICE  
The General Director

Brussels, 26<sup>th</sup> July 2018  
sj.ddg.002(2018)4437589

*By email*

Mr Nicholas Haagensen  
European Legal Networks in Crisis  
Avenue Hamoir 56A  
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Belgium

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**Subject: Request for access to documents**

**Ref.:** Your request for access to documents registered under reference GestDem 2018/2847.

Dear Mr Haagensen,

I refer to your request for access to documents, under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup>. Your request concerns all submissions in cases C-62/14<sup>2</sup> and C-370/12<sup>3</sup>.

In accordance with the fair solution agreed on 24 May 2018, the Legal Service has split your request in two consecutive batches. The present reply refers to the first batch of your request concerning the documents filed in case C-370/12.

### 1. OBSERVATIONS SUBMITTED BY INSTITUTIONS OF THE EUROPEAN UNION

With regards to the observations submitted by the European Commission, please note that this document has been already made public and can be found at the link below:

[http://ec.europa.eu/dgs/legal\\_service/submissions\\_cour\\_cn.htm](http://ec.europa.eu/dgs/legal_service/submissions_cour_cn.htm).

Regarding the written observations submitted by the European Council, the Legal Service, in accordance with Article 4(4) of Regulation (EC) No 1049/2001, has consulted the referred institution on the disclosure of its document. I am pleased to inform you that the Council has agreed to the disclosure of its submission.

<sup>1</sup> OJ L 145, 31.05.2001, page 43.

<sup>2</sup> Judgment of the Court of 16 June 2015 in *Gauweiler and Others*, C-62/14, ECLI:EU:C:2015:400.

<sup>3</sup> Judgment of the Court of 27 November 2012 in *Pringle*, C-370/12, ECLI:EU:C:2012:756.

## 2. OBSERVATIONS SUBMITTED BY OTHER PARTIES

As far as the written observations submitted by other parties are concerned, the Court of Justice has notified to the European Commission the submissions lodged by the following parties:

1. Mr Thomas Pringle,
2. the Austrian Government,
3. the Belgian Government,
4. the Cypriot Government,
5. the Dutch Government,
6. the French Government,
7. the Italian Government,
8. the Slovakian Government,
9. the Spanish Government,
10. the German Government,
11. the Greek Government,
12. the Irish Government and
13. the Government of the United Kingdom,

In accordance with article 4(4) of Regulation (EC) No 1049/2001, the Commission must consult the authors on the disclosure of their documents. Following these consultations I would like to inform you that:

- The Austrian, Belgian, Cypriot, Dutch, French, Italian, Slovakian, and Spanish Governments have agreed to the disclosure of their documents.
- The German, Greek, and Irish Governments, as well as the Government of the United Kingdom have not replied to the Commission's consultation.

With regards to the documents for which the Commission has not received a reply, the Court of Justice has recognised in its judgment in joined cases C-514/07P, C-528/07P and C-532/07P that, in cases where the proceedings have been closed by a decision of the Court, there are no longer grounds for presuming that disclosure of the pleadings would undermine the judicial activities of the Court<sup>4</sup>.

Since the case concerned is now closed, and in the absence of an objection from the parties concerned, I would like to inform you that access can also be granted to the relevant documents in accordance with Regulation (EC) No 1049/2001.

## 3. DISCLOSED DOCUMENTS

Please note that personal data has been expunged in the disclosed documents. More specifically, the handwritten signatures, the emails of the lawyers representing Mr Thomas Pringle and the Government of the United Kingdom, as well as the names of the Court's officials have been redacted. This information must be protected under the exception provided for in Article 4 (1)(b) of Regulation (EC) No 1049/2001 ("*protection of personal*

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<sup>4</sup> Judgment of 21 September 2010 in joined cases *Sweden and Others v API and Commission*, C-514/07P, C-528/07P and C-532/07P, ECLI:EU:C:2010:541, paragraphs 130 and 131.

data")<sup>5</sup>, in accordance also with the European Union legislation regarding the protection of personal data.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>6</sup>. According to Article 8(b) of Regulation (EC) No 45/2001<sup>7</sup>, 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. Those two conditions are cumulative.

I consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

If you wish to receive the personal data, I invite you to provide us with arguments showing the need to have the personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data would be disclosed.

Please note that the exception of Article 4(1)(b) has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

Accordingly, please find attached the requested documents. The written observations are available in English, which was the language of the proceedings, in French and in the language of the respective Member States. Considering that your request was sent in English, the documents are also disclosed in the same language. Please note that with the exception of the observations submitted by Mr Thomas Pringle, the Irish Government and the Government of the United Kingdom, where English was the original language, for the remaining parties you will receive the English translation prepared by the Services of the Court.

#### **4. REUSE OF THE DOCUMENTS**

Regarding the submissions made by the EU institutions, you may reuse them 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 documents. Please note that the Commission does not assume liability stemming from the reuse.

Concerning the documents submitted by the remaining third parties, please note that the disclosed documents were transmitted by the Court of Justice to the Commission in its capacity as participant to the Court proceedings at stake. Access is granted for information only and cannot be re-used without the agreement of the originator, who holds a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

#### **5. MEANS OF REDRESS**

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the following address:

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<sup>5</sup> "The institutions shall refuse access to a document where disclosure would undermine the protection of: [...] (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data".

<sup>6</sup> Judgment of the Court of 29 June 2010 in *Commission v The Bavarian Lager Co. Ltd*, C-28/08 P, EU:C:2010:378.

<sup>7</sup> OJ L 8, 12.1.2001, page 1.

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)

The Secretary General will inform you of the result of this review within 15 working days from the date of registration of your request. You will either be given access or your request will be rejected in which case you will be informed of how you can take further action.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Luis Romero Requena', with a stylized, flowing script.

Luis ROMERO REQUENA

Attachments: 14