



## EUROPEAN COMMISSION

Directorate-General for Trade

The Director General

 Ref. Ares(2018)4143655 - 07/08/2018

Brussels,  
trade.dga2.f.1(2018)4341933

***By registered letter with acknowledgment of receipt***

Mr Jeremie Charles  
23 rue de la science  
1040 Bruxelles

***Advance copy by email :***  
[ask+request-5671-449e7193@asktheeu.org](mailto:ask+request-5671-449e7193@asktheeu.org)

**Subject: Your application for access to documents Ref GestDem 2018/3266**

Dear Mr Charles,

I refer to your e-mail dated 14 June 2018 in which you make a request for access to documents under Regulation (EC) No 1049/2001<sup>1</sup> ("Regulation 1049/2001"), registered on 25 June 2018 under the reference number GestDem 2018/3266.

You request access to:

- *Any and all document/information identifying the sanctions/penalties imposed by Member States in the event of breach of any relevant provision of Council regulation (EC) No 428/2009 (as provided by Article 24 thereof).*

You clarified on 25 July 2018 that your request concerns *(1) the most recent documents that each Member State sent to the Commission providing the penalties applicable to infringements of Council Regulation (EC) No 428/2009 in their jurisdiction pursuant to Article 25 thereof; and (2) any document drawn up by the Commission compiling the penalties applicable to infringements of Council Regulation (EC) No 428/2009 by Member State.*

I would like to inform you that the Commission does not hold any documents that would correspond to the description given in your application.

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.

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

Regular information exchange with Member States is conducted on national measures, and the results are published in the Official Journal (See C304/3 of 20 August 2016). However this exchange concerns measures taken under Articles 5, 6, 8, 9, 10, 17 and 22 of Council Regulation (EC) No 428/2009, but has thus far not been extended to applicable sanctions/penalties as referred to in Art. 24 of that Regulation.

DG TRADE supports enhanced information exchange and transparency in the area of export control, in particular with the legislative proposal COM(2016)616 for a modernisation of EU export controls, that contains specific provisions on transparency. DG TRADE has thus started, since 2013, the publication of annual reports, which contain information on the application of export controls under Regulation (EC) 428/2009 (see [http://trade.ec.europa.eu/doclib/docs/2017/november/tradoc\\_156396.pdf](http://trade.ec.europa.eu/doclib/docs/2017/november/tradoc_156396.pdf)). Recently, DG TRADE has been promoting the development of information exchange on applied sanctions and penalties in the context of regular data exchange exercises with Member States.

Given that no document corresponding to the description given in your application is held by the Commission, the Commission is not in a position to fulfil your request.

In accordance with Article 7(2) of Regulation 1049/2001 you are entitled 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:

European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/282  
BE-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

*[e-signed]*

Jean-Luc DEMARTY  
p.o. Ignacio GARCIA BERCERO