



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

The Director General

Brussels,

**BY REGISTERED LETTER WITH  
ACKNOWLEDGEMENT OF RECEIPT**

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**Advance copy by email** ask+request-5722-  
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Dear Sir,

**Subject: Your application for access to documents – Guidelines for the  
alternative care of children- GESTDEM 2018/4225**

I refer to your email dated 5 July 2018, registered on 03 August 2018 under the above-mentioned reference number, in which you make a request for access to documents which contain the following information: *Documents that provide information about the decision taking and/or the fact that the UN's 2009 Guidelines for the alternative care of children are to be considered as legal basis for the EU. Including, but not limited to, documents that clarify that these Guidelines are formal UN Guidelines.*

On 28 June 2018 you sent an email to Ms Margaret Tuite asking her for an explanation on the Guidelines for the Alternative care of children, more specifically *on why the European Commission pushes these “not approved” Guidelines forward, gives funding out in line with them and communicates them externally and internally as if they were approved by the UN General Assembly.*

Ms Margaret Tuite replied to you on 13 July 2018, explaining that:

“The Guidelines were welcomed by the United Nations General Assembly (UNGA) in its Resolution 64/142 of 24 February 2010; “as a set of orientations to help inform policy and practice”. The UNGA Resolution went on to state:

“The General Assembly

*Encourages* States to take the Guidelines into account and to bring them to the attention of the relevant executive, legislative and judiciary bodies of

government, human rights defenders and lawyers, the media and the public in general;”

“*Requests* the Secretary-General, within existing resources, to take steps to disseminate the Guidelines in all the official languages of the United Nations, including by transmitting them to all Member States, regional commissions and relevant intergovernmental and non-governmental organisations.”

...

The purpose of the Guidelines is “*to enhance the implementation of the Convention on the rights of the child, and of relevant provisions of other international instruments regarding the protection and wellbeing of children who are deprived of parental care or who are at risk of being so.*”...

While, as you say, the UNGA did not formally adopt them, the UNGA welcomed them and they are commonly referred to as the UN Guidelines for the alternative care of children. They constitute relevant non-binding soft law standards to help promote the protection of the rights of the child and their merit is not disputed.

It is in that context that the Commission embeds them in funding priorities relevant to the alternative care of children and also in the 2015 10 Principles for integrated child protection systems.”

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 no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to handle 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  
B-1049 Bruxelles or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Tiina Astola