



EUROPEAN COMMISSION
Neighbourhood and Enlargement Negotiations

R - RESOURCES
R.2 - LEGAL ISSUES

Brussels,

Subject: Your applications for access to documents – Ref. GestDem 2020/2086, 2020/2087 and 2020/2088

Dear Ms Pacciardi,

I refer to your emails of 7 April 2020¹ in which you submit three requests for access to documents, registered under the above-mentioned reference numbers².

Your applications concern a very large number of documents, which need to be assessed individually. The handling of your requests also involves the assessment of documents originating from third parties and Member States. Disclosure of these documents requires prior consultation with the relevant third parties and Member States in accordance with Article 4(4) and 4(5) of Regulation (EC) No 1049/2001³.

Such a detailed analysis, given especially the exceptional circumstances related to COVID-19 under which the Commission operates, cannot be carried out within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

However, Article 6(3) of Regulation (EC) No 1049/2001 also provides for a possibility to confer with an applicant informally with a view to finding a fair solution when an application relates to a very long document or concerns a very large number of documents.

In accordance with case law of the EU Courts, such a solution can only concern the content or the number of documents applied for, not the deadline for replying⁴. This means that the scope of the request must be reduced in a way that would enable its treatment within the extended deadline of 15 + 15 working days.

¹ Ref. Ares(2020)2036519, Ares(2020)2036648 and Ares(2020)2036770 respectively.

² Ref. Ares(2020)2037234.

³ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, Official Journal L 145 of 31 May 2001, p. 43.

⁴ Judgment of the Court of Justice of 2 October 2014, *Strack v European Commission*, C-127/13, (hereinafter referred to as the ‘*Strack v Commission* judgment’), EU:C:2014:2250, paragraphs 26-28.

Email:

ask+request-7835-5d44ea9e@asktheeu.org; ask+request-7836-c96d0736@asktheeu.org;
ask+request-7837-9fea8fe3@asktheeu.org.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your request and your specific interest in the documents requested⁵, and whether you could narrow down the scope of your request (i.e. the subject matter(s) and/or timeframe covered), so as to reduce it to a more manageable amount of documents.

We are hereby making an estimation of the work that can be performed within the extended deadline of 30 working days in order to offer you a fair solution.

Overall, the treatment of your request takes the following steps:

- identification of the documents falling under your request;
- retrieval and establishment of a complete list of the documents identified;
- assessment of the content of the documents in light of the exceptions of Article 4 of Regulation (EC) No 1049/2001;
- third-party / Member State consultations under Article 4(4) and 4(5) of Regulation (EC) No 1049/2001;
- final assessment of the documents in light of the comments received;
- drafting of the reply;
- redaction of those parts of the documents to which one or several exceptions apply;
- internal review and approval of the draft decision; and
- preparation of the reply and the documents for dispatch.

According to our first preliminary estimates, the workload for the treatment of your request for handling the relevant documents of 1 year would take approximately 60 working days⁶.

A fair solution could therefore consist in the assessment of all documents related to your requests that were produced since 1 January 2020. Please note that the majority of documents that we will assess contain sensitive information. Each document will be properly assessed on a case-by-case basis under the provisions of Regulation (EC) No 1049/2001 and in line with the case-law of the Court of Justice of the European Union. Due to security and confidentiality reasons, we cannot guarantee that we will be able to provide access to a large percentage of documents that will fall under the scope of the request.

In order to enable us to respect the time-limits of Regulation (EC) No 1049/2001, we would ask you for a swift reply to our invitation to propose a fair solution, within five working days at the latest:

- by email to: NEAR-ACCDOC@ec.europa.eu

⁵ *Strack v Commission* judgment, paragraph 28; Judgment of the General Court (then 'Court of First Instance') of 22 May 2012, *EnBW Energie Baden-Württemberg v European Commission*, T-344/08, EU:T:2012:242, paragraph 105.

⁶ Taking into account other applications for access to documents and other tasks that the staff concerned are likely to have to deal with during the same period.

If you have any questions concerning the invitation, you can contact us at the same email address.

In the absence of a reply within five working days, we will unilaterally restrict the scope of your application to those parts that can be dealt with within the extended deadline of 30 working days, counting from the registration of your application on 14 April 2020.

Thank you in advance for your understanding

Yours sincerely,

[e-signed]
Christos Komninos
Head of Unit