



EUROPEAN COMMISSION

Brussels, 1.2.2019
C(2019) 870 final

OUT OF SCOPE
DIGITALEUROPE
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Belgium

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹**

**Subject: Your confirmatory application for access to documents under
Regulation (EC) No 1049/2001 - GESTDEM 2018/6258**

Dear ,

I refer to your email registered on 14 December 2018, in which you submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter 'Regulation (EC) No 1049/2001').

1. SCOPE OF YOUR REQUEST

In your initial application of 22 November 2018, registered under reference number GESTDEM 2018/6258 and addressed to the Directorate-General for Communication Networks, Content and Technology, you requested 'the disclosure of the email or letter sent by the requester asking for a copy of our letter. [You indicated that you understood] that personal information may not be disclosed and [that you accepted] that [we] send [...] the information without disclosing any name or personal data'.

The documents you requested formed part of the file of another application for access to documents registered under reference number GESTDEM 2018/5806.

¹ Official Journal L 345 of 29.12.2001, p. 94.

² Official Journal L 145 of 31.5.2001, p. 43.

On 13 December 2018, the Directorate-General for Communication Networks, Content and Technology replied to your application, identifying the following document as falling within the scope of your request:

- e-mail of 6 November 2018 addressed to the Directorate-General for Communication Networks, Content and Technology by the applicant requesting access to documents, reference Ares(2018)5679081.

The Directorate-General for Communication Networks, Content and Technology granted partial access to the above-mentioned e-mail, subject to the redactions of the first and last name of the Commission staff member handling the request, the first and last name of the applicant, the applicant's contact details, the name of the organisation on behalf of which the applicant requested the documents and the contact details of the organisation. These redactions were based on the exception of Article 4(1)(b) (protection of the privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

In your initial application, you did not request access to any personal data. Consequently, personal data did not fall within the scope of your request.

In your confirmatory application, you requested a review of the initial reply of the Directorate-General for Communication Networks, Content and Technology. In particular, you requested access to the name of the company or organisation on behalf of which the applicant made a request for access to documents registered under reference number GESTDEM 2018/5806 (hereafter 'the applicant'). You also indicate that '[you] would like [the European Commission] to consider the necessity for the public to receive the personal data of the requester'.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation (EC) No 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the relevant Directorate-General at the initial stage.

Following this review, I can inform you that wider partial access can be granted to the name of the organisation of the applicant and its contact details appearing in the e-mail.

The name of the Commission staff member handling the request, the name of the applicant and the applicant's contact details, which are personal data, remain undisclosed, because they do not fall within the scope of your request.

According to Article 7(2) of Regulation (EC) No 1049/2001, a confirmatory application can be made by the applicant only '[i]n the event of a total or partial refusal'. Since you did not request access to personal data at initial stage, it is not possible to make a confirmatory request concerning these data. In case you are interested in these data, you can make a new application.

3. MEANS OF REDRESS

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,



*For the European Commission
Martin SELMAYR
Secretary-General*

Enclosure(s): 1