

Der Generalsekretär

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REGISTERED LETTER
WITH ACKNOWLEDGMENT OF RECEIPT

Mr Nikolaj Nielsen
EUobserver
Avenue d'Auderghem 150
1040 - Bruxelles
Belgium

Subject: Your application for public access to documents
Our reference: **A(2020)7398** (to be quoted in future correspondence)

Dear Mr Nielsen,

On 3 July 2020, the European Parliament registered your application requesting "*information that reveals how much was saved in terms of unspent budgets on travel costs from March until June this year*" due to the fact that "*MEPs were unable to travel during much of the confinement*".

Parliament assessed your application in the light of Regulation (EC) No 1049/2001 laying down the terms and the conditions for public access to the documents of the European Union institutions¹.

As a preliminary remark, Parliament draws your attention to the fact that the scope of Regulation (EC) No 1049/2001, as defined in its Article 2(3), extends only to documents held by an institution, that is to say documents drawn up or received by the institution and in its possession, and it does not cover the broader concept of information.

¹ 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, OJ L 145, 31.5.2001, p.43

The General Court has confirmed such interpretation underlining that it is necessary to maintain a distinction between the concept of a document and that of information, for the purposes of applying Regulation (EC) No 1049/2001. Information may be distinguished from a document, in particular, as far as it is defined as a data element that may appear in one or more documents. In that respect, since none of the provisions of Regulation (EC) No 1049/2001 deals with the right of access to information as such, it cannot be inferred that the public's right of access to an institution documents implies a duty on the part of the institution to reply to any request for information from an individual².

Moreover, as specified by the Court of Justice of the European Union³, the right of access to documents held by the institutions within the meaning of Article 2(3) of Regulation (EC) No 1049/2001 applies only to existing documents in the possession of the institution concerned.

However, the Court has also established that the fact that a document to which access has been requested does not exist, or the fact that it is not in the possession of the institution concerned, does not make Regulation (EC) No 1049/2001 inapplicable. On the contrary, the institution concerned is under a duty to respond to the applicant and if necessary to justify its refusal of access⁴.

Following this case-law, Parliament informs you that, after internal consultation with the relevant service, no documents have yet been established that reflect the savings on travel costs since MEPs may still submit requests concerning travel costs until the end of the current year and therefore the budget will only be definitive in year N+1.

In conclusion, considering all the above, Parliament is not bound to disclose information under Regulation (EC) No 1049/2001 and does not hold documents within the meaning of Article 2(3) thereof that fall within the scope of your application.

Your attention is drawn to the fact that, pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to submit, within 15 working days of receipt of this letter, a confirmatory application asking the European Parliament to reconsider its position.

Yours sincerely,


Klaus WELLE

² Judgment of the General Court of 2 July 2015, *Typke v Commission*, T-214/13, EU:T:2015:448, paragraphs 53 and 54.

³ Judgment of the Court of 11 January 2017, *Typke v Commission*, C-491/15 P, EU:C:2017:5, paragraph 31

⁴ Judgment of the Court of 2 October 2014, *Strack v Commission*, C-127/13 P, ECLI:EU:C:2014:2250, paragraphs 41 and 42.