



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

The Director General

Brussels
GROW.01/MD/

Mr Alvaro Merino
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Spain

By email to:
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Subject: Your application for access to documents – GESTDEM 2020/4249

Dear Mr Merino,

We refer to your e-mail of 9 July 2020 in which you make a request for access to documents, registered on 3 August 2020 under the above-mentioned reference number.

1. Scope of your request

You request access to “a) *Meeting records (emails, minutes, reports, briefing papers, drafts, memos...)* involving Huawei officials and/or people representing Huawei's interests. b) *Correspondence within your personnel and/or the European institutions concerning Huawei, its products and its services.* c) *Invoices, tenders, service agreements, purchases, orders, procurement documents, offers, etc. concerning products and services using Huawei services*”.

On our request for clarification sent on 13 July, 16 July and 22 July (as a reminder), you replied on 13 July 2020: “*I am interested in documents redacted from 2010 onwards*”. Also, on 3 August 2020 you clarified the following: “*I specified three different and independent approaches to the search of documents. Only in the last part I refer to tenders, service agreements, purchases, orders, procurement documents, offers, etc. concerning products and services using Huawei services. In the rest of the request, please understand I include any kind of correspondence and meetings involving Huawei. It is a particular entity and I limited the scope of the request with regard to the time limits.*”

Please note that this reply relates only to the documents held by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs.

Please note that the documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

2. Identification and assessment of the concerned documents

We have identified 34 documents falling within the scope of your request.

You will find attached a table listing the identified documents and summarizing the outcome of the assessment carried out on the basis of Regulation (EC) No 1049/2001.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001, I have come to the conclusion that they may be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of the Regulation. Those exceptions concern:

- protection of privacy and the integrity of the individual - Art. 4(1)(b);
- protection of the commercial interests of a legal person - Art. 4(2) first indent.

3. Reasons for partial access

Protection of personal data

A complete disclosure of the identified documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- other information relating to an identified or identifiable natural person such as handwritten signatures, office numbers and phone numbers.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents mentioned above, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the

legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

Therefore, partial access is granted to the requested documents, expunged of personal data.

Protection of the commercial interests

In addition, the documents 3, 14, 16.1. and 19.1. contain commercially sensitive business information of the company involved. Disclosure of parts of these documents would undermine the protection of the commercial interests of the company, as putting this information in the public domain would affect their competitive position on the market. Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to those documents.

4. Means of redress

In accordance with Article 7(2) of Regulation (EC) No 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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

(e-signed)
Kerstin JORNA

Enclosure: 34 Annexes
Document register - Gestdem 2020/4249