



EUROPEAN COMMISSION

Brussels, 23.4.2019  
C(2019) 3196 final

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[REDACTED]  
76344 Eggenstein-Leopoldshafen  
Germany

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE  
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001<sup>1</sup>**

**Subject: Your confirmatory application for access to documents under  
Regulation (EC) No 1049/2001 - GESTDEM 2019/0965**

Dear [REDACTED],

I refer to your email of 21 March 2019, registered on the same day, in which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup> (hereafter ‘Regulation (EC) No 1049/2001’).

**1. SCOPE OF YOUR REQUEST**

In your initial application of 19 February 2019, addressed to the Directorate-General for Migration and Home Affairs, you requested access to document number C(2018)2161/F1.

The European Commission has identified the following documents as falling under the scope of your request:

- Commission Recommendation of 17.4.2018 establishing a catalogue of recommendations and best practices for the correct application of the Schengen Information System (SIS II) and the exchange of supplementary information by the Member States competent authorities implementing and using SIS II and replacing the catalogue established by the

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<sup>1</sup> Official Journal L 345 of 29.12.2001, p. 94.

<sup>2</sup> Official Journal L 145 of 31.5.2001, p. 43.

recommendation of 16 December 2015, of 17 April 2018, reference C(2018) 2161 (hereafter 'document 1'), which includes the following annex:

- Annex to the Commission Recommendation mentioned above, of 17 April 2018 (hereafter 'document 1.1').

In its initial reply of 19 March 2019, Directorate-General for Migration and Home Affairs granted full access to document 1 and refused access to document 1.1 based on the exception of Article 4(1)(a) (protection of public interests) of Regulation (EC) No 1049/2001.

In your confirmatory application, you request a partial review of this position in respect of that part of document 1.1 that concerns 'data protection, more specifically on the exercise of the right to access, rectification and deletion'. Consequently, the scope of this review will be limited to this part.

## **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 Directorate-General concerned at the initial stage. This review is limited to the part of document 1.1 that you specified in your confirmatory application.

Following this review, I can inform you that document 1.1 contains a section 16 titled 'Data protection (Arts 56 – 60 SIS II Dec and Arts 40 – 44 SIS II Reg)' with the following subtitle: 'Handling rights of access, correction and deletion'. However, this section is empty.

Therefore, I conclude that no meaningful access can be granted to document 1.1 in the light of your limited request for review.

### 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 Commission*  
*Martin SELMAYR*  
*Secretary-General*