



EUROPEAN COMMISSION

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██████████  
██████████  
21000 Split  
Croatia

**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 – Gestdem 2019/0557**

Dear ██████████,

I am writing in reference to your email of 25 March 2019, registered on the same date, by which you lodge 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’).

Through your initial application of 16 January 2019, as clarified per your email of 13 February 2019, you requested access to EU documents in relation to the Republic of Croatia's exercise of jurisdiction and control over satellite communication networks and services (2GHz) on ships flying its flag in international seas.

By letter of 5 March 2019, the Directorate-General for Communications Networks, Content and Technology informed you that it was not able to identify any documents as falling within the scope of your request.

In your confirmatory application, you request a review of this position.

Against this background, I would like, as a preliminary, to briefly clarify the legal framework surrounding the context of your request. The applicable legislation in Croatia consists of the Croatian Electronic Communications Act<sup>3</sup>.

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<sup>1</sup> Official Journal L 345 of 29 December 2001, p. 94.

<sup>2</sup> Official Journal L145 of 31 May 2001, p.43

<sup>3</sup> Official Gazette 73/2008.

The 2008 Act was adopted at the time for implementing in Croatia the EU sectorial legislation *acquis* comprised of the various electronic communications Directives<sup>4</sup>, following the opening of Croatia's accession negotiations on 3 October 2005.

However, the EU legislation on electronic communications does not regulate the regime applicable to ships registered in the EU sailing in high seas. Such ships are identified in the framework of national legislation in accordance with the applicable international maritime law.

Against this background, the European Commission has carried out a renewed, thorough search for the documents that would fall within the scope of your request. Following this renewed search, I confirm that the European Commission does not hold any document corresponding to the description provided in your application.

Article 2(3) of Regulation (EC) No 1049/2001 provides that the right of access as defined in that instrument applies only to existing documents in the possession of the institution.

In this instance, as the European Commission does not hold any such documents corresponding to the description given in your application, it is unfortunately not in a position to fulfil your request.

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 provided for respectively under Article 263 and Article 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,



*For the Commission*  
*Martin Selmayr*  
*Secretary-General*

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<sup>4</sup> Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive); Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive); Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive); Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).