



EUROPEAN COMMISSION

Brussels, 11.10.2019
C(2019) 7458 final

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████████████████████
24100 Kalamata
Greece

**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 – GESTDEM
2019/4088**

Dear ██████████,

I am writing in reference to your email of 6 August 2019, registered on 7 August 2019, 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 documents² (hereafter ‘Regulation (EC) No 1049/2001’).

Through your initial application of 16 July 2019, you requested access to ‘[c]opy of the report prepared by ██████████ and submitted to the E[uropean] C[ommission] following his visit to ██████████ in December 2018 (<https://eeas.europa.eu/regions/████████████████████> ██████████)’.

By letter of 26 July 2019, the Directorate-General for Neighbourhood and Enlargement Negotiations informed you that it was not able to identify any documents as falling within the scope of your request. The Directorate-General for Neighbourhood and Enlargement Negotiations explained the lack of any relevant documents on the ground that ██████████ reported back orally following his visit to ██████████ and no written report was thus produced.

In your confirmatory application you question the absence of any document.

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

² Official Journal L145 of 31.05.2001, p. 43.

You take the view that ‘it appears rather difficult to accept that [REDACTED], tasked with paying a third follow-up visit to [REDACTED], had not been asked to prepare at least a written summary of his main findings but rather was expected to convey them orally to [the Directorate-General for Neighbourhood and Enlargement Negotiations].’

You further argue that ‘it is difficult to see how effective it would be [...] for [REDACTED] [to both] convey orally and provide evidence and arguments for his observations on a number of very technical and rather complicated issues (such as e.g. the potential for new forms of state capture) with a view to updating the [European] Commission as to the situation in that country, as well as for his interlocutors to meaningfully follow his presentation’.

According to you ‘at the very least some minutes of the oral presentation of [REDACTED]’s findings to [the Directorate-General for Neighbourhood and Enlargement Negotiations] were kept [...]’.

Alternatively, you enquire on whether there is an internal document that would justify a change of practice within the Directorate-General for Neighbourhood and Enlargement Negotiations, in comparison with the previous two visits of [REDACTED] which resulted in to ‘two, truly standard-setting, fact-finding and assessment reports’.

Against this background, the European Commission has carried out a renewed, thorough search for the documents requested. Following this renewed search, I confirm that the Institution does not hold any documents that would correspond to the description given in your application.

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

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.

Please find below further explanations which address the various queries raised in the framework of your confirmatory application.

[REDACTED] [REDACTED] in 2015 and 2017 a [REDACTED] on systemic rule of Law issues [REDACTED]. The objective of that [REDACTED] was to draft a report and make recommendations, in a particular context, which provided the basis for the European Commission’s Urgent Reform Priorities.

Following the early parliamentary elections of December 2016 and the establishment of a new government, the same team of experts was sent to [REDACTED] in [REDACTED] to assess and report on the progress made in addressing their previous findings.

In 2018, following its recommendation to open accession negotiations with [REDACTED] [REDACTED] and the Council Conclusion of 26 June 2018, the European Commission continued to monitor reform efforts, in particular in the area of the rule of law, including the Urgent Reform Priorities and the findings of the Senior Experts’ Group.

In that context, the Directorate-General for Neighbourhood and Enlargement Negotiations asked [REDACTED] *himself* (namely, without the team of experts) to make a brief visit in [REDACTED] to [REDACTED]. The purpose of this visit was to follow up on the implementation of the previous recommendations made by the Experts' Group with a focus on judicial reforms. Contrary to your assumption, it was not to draft a comprehensive report, unlike in the framework of the Senior Experts' Group's visits of 2015 and 2017. The main objective was indeed to meet stakeholders and government officials working in the field of justice, in order to assess progress and advise the authorities about delivery of tangible results.

Following his visit, [REDACTED] met with the Directorate-General for Neighbourhood and Enlargement Negotiations for an oral debriefing of his main findings. The latter were directly taken into account in the preparation of the 2019 Report on [REDACTED], in particular in Chapters 23 and 24 which were being drafted at that time³.

Consequently, neither a report nor any debriefing notes were needed or prepared. The different nature of the [REDACTED] visit of [REDACTED] to [REDACTED] and reporting thereon resulted indeed from a managerial decision within the Directorate-General for Neighbourhood and Enlargement Negotiations, for which no internal document was required.

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 respectively under Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

For the Commission

[REDACTED]
[REDACTED]

CERTIFIED COPY
For the Secretary-General,

[REDACTED]
EUROPEAN COMMISSION

³ This report is accessible at the following link:
[https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/\[REDACTED\]](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/[REDACTED])