



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Horizontal policies

Free movement of capital and application of EU law

Brussels

FISMA.B.4/SS-VB/av

fisma.ddg.b4(2021)3121410

Subject: Your applications for access to documents – GESTDEM 2021 /2133 and 2134

Dear Madam,

We refer to your two emails of 7 April 2021 in which you make a request for access to documents, registered on 8 April 2021 under the above-mentioned reference number.

Your application concerns a large number of documents over a time span of four years, which need to be retrieved and assessed individually. Such a detailed analysis cannot be carried out within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001. The handling of your two requests involves the assessment of a number of documents originating from third parties (including a large amount of personal data) and Member States. The analysis of these documents, together with the need to consult the third parties and the Member States concerned in accordance with Articles 4(4) and 4(5) of Regulation (EC) No 1049/2001, cannot be expected to be completed within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your application and your specific interest in the documents requested¹, and whether you could narrow down the scope of your application (i.e. the subject matter(s)), so as to reduce it to a more manageable amount of documents.

In order to help you to narrow down your application, please note that at least 70 documents have been identified in the following categories of documents as falling under the scope of your request:

- Minutes of meetings of the Expert Group on intra-EU investment environment
- Documents of the Expert Group on intra-EU investment environment
- Reports on meetings with external stakeholders

¹ Strack v Commission judgment, paragraph 28; Judgment of the General Court (then 'Court of First Instance') of 22 May 2012, EnBW Energie Baden-Württemberg v European Commission, T-344/08, EU:T:2012:242, paragraph 105.

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- Correspondence relating to the organisation of two workshops in 2018 and 2019 workshop participants

Concerning correspondence with stakeholder in particular, we note that a number of standard invitation letters and thank you letters have been sent to the participants and speakers in the 2018 and 2019 workshops. All letters include personal data, which normally has to be removed. Thus, providing you with multiple invitation and thank you letters, which are similar on substance, would be of little added value in terms of content, while it will necessitate a large amount of time to process the personal data and possibly contact third parties. We would therefore propose sharing one standard letter of invitation or thank you letter per category of stakeholder, where available. In any case, the names of the speakers can be found on the agendas of the workshops.

We would propose to deal only with one request within the time limit indicated below, namely first with request 2133 and secondly, with request 2134 as it requires consultations with Member States, potentially involving multiple national authorities.

According to our first estimates, the handling of your requests would take for each request up to 30 working days², broken down as follows:

- identification of the documents falling under your request: 7 working days;
- retrieval and establishment of a complete list of the documents identified: 3 working days;
- assessment of the content of the documents in light of the exceptions of Article 4 of Regulation (EC) No 1049/2001: 5 working days;
- Third-party / Member State consultations under Article 4(4) and 4(5) of Regulation (EC) No 1049/2001: 15 working days;
- final assessment of the documents in light of the comments received and drafting of the reply: 2 working days;
- redaction of those parts of the documents to which one or several exceptions apply: 3 working days;
- internal review and approval of the draft decision: 3 working days; and
- preparation of the reply and the documents for dispatch (scanning of the redacted versions, administrative processing etc.): 2 working days.

It follows that, according to our first estimates, a maximum of 50 documents in the respective categories could possibly be dealt with within the extended deadline of 30 working days for each request, counting from the date of registration of your application on 8 April 2021 for the first request (2133) and consecutively -for request 2134. We will still endeavor to respond to your requests as soon as possible.

In accordance with the case law of the EU Courts, such a solution can only concern the content or the number of documents requested, not the deadline for replying.³ This

² Taking into account other applications for access to documents and other tasks that the staff concerned are likely to have to deal with during the same period.

means that the scope of the request must be reduced in a way that would enable its processing within the extended deadline of 15 + 15 working days.

In order to enable us to respect the time-limits of Regulation (EC) No 1049/2001, we would ask you for a swift reply to our invitation to propose a fair solution, within five working days at the latest:

- by e-mail to FISMA-B4@ec.europa.eu; or

If you have any questions concerning the invitation, you can contact us:

- by e-mail at: FISMA-B4@ec.europa.eu; or

- by telephone at: (+32) (0) 22 955845

In the absence of a reply within five working days, we will unilaterally restrict the scope of your application to those parts that can be dealt with within the extended deadline of 30 working days, counting from the registration of your application 8 April 2021.

Thank you in advance for your understanding.

Yours faithfully,

Electronically signed

Anne-Françoise Mélot
Head of Unit

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