



EUROPEAN COMMISSION

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

The Director-General

Brussels  
FISMA.E.5/AS/4389180

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Dear Mr Soesanto,

**Subject: Your application for access to documents – Ref. GestDem 2021/3472**

We refer to your application for access to documents, registered on 27/05/2021 under the above-mentioned reference number.

You requested public access to “documents related to Article 8(1)(a) of Council Regulation (EU) 2019/796:

- (1) The number of attempted asset freezes by the member states, pertaining to the 8 natural persons and 4 legal persons, entities and bodies as listed in Council Implementing Regulation (EU) 2020/1125, 2020/1536, and 2020/1744
- (2) The number of successfully frozen assets by the member states, pertaining to the 8 natural persons and 4 legal persons, entities and bodies as listed in Council Implementing Regulation (EU) 2020/1125, 2020/1536, and 2020/1744
- (3) The combined value of the assets frozen by the member states, pertaining to the 8 natural persons and 4 legal persons, entities and bodies as listed in Council Implementing Regulation (EU) 2020/1125, 2020/1536, and 2020/1744”.

The request refers to your earlier request GESTDEM 2020/6931 and concerns the restrictive measures against cyber-attacks threatening the Union or its Member States. The Implementing Regulations concern Annex I to Council Regulation (EU) 2019/796<sup>1</sup> setting out the list of natural and legal persons, entities and bodies subjected to the freezing measures of Articles 3(1) and 3(2) of the 2019 Regulation.

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<sup>1</sup> OJ L 129 I, 17.5.2019, p. 1.

Article 8(1) of Regulation (EU) 2019/796 provides:

“Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

- (a) supply immediately any information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 3(1), to the competent authority of the Member State where they are resident or located, and transmit such information, directly or through the Member State, to the Commission; and
- (b) cooperate with the competent authority in any verification of the information referred to in point (a).”

Article 8(3) provides:

“Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.”

Article 12(1) provides:

“The Commission and Member States shall inform each other of the measures taken under this Regulation and share any other relevant information at their disposal in connection with this Regulation, in particular information in respect of:

- (a) funds frozen under Article 3 ...;
- (b) ...”

The Commission has received certain data from the competent authorities of the Member States but has not received any documents sent by natural and legal persons, entities and bodies pursuant to Article 8. Having examined the relevant data received by the Commission under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of public access laid down in Article 4 of the Regulation.

Disclosure of the relevant data would undermine the protection of the public interest as regards public security and international relations and, to the extent that such data would consist of personal data as defined in point 1 of Article 3 of Regulation (EU) 2018/1725<sup>2</sup>, the protection of privacy and the integrity of the individual. These exceptions are laid down in the second and third indents of Article 4(1)(a) and in Article 4(1)(b) of Regulation (EC) No 1049/2001.

#### *Public security and international relations*

The freezing measures are applied with a view to achieving the objectives of the Common Foreign and Security Policy. Article 1(1) of Regulation (EU) 2019/796 indicates that they relate to cyber-attacks with a significant effect, which constitute an external threat to the Union or its Member States. Article 1(6) adds that restrictive measures may also be applied in response to cyber-attacks with a significant effect against third States or international organisations. Cyber-attacks with a significant effect will often be carried out by, or with the support of, third countries. Making data on the impact of the restrictive measures publicly available risks compromising the freezing

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<sup>2</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, OJ L 295, 21.11.2018, p. 39.

measure's effectiveness as a means to deter third countries from engaging in or supporting such cyber-attacks and to respond to such attacks. In addition, Article 8(3) provides that information provided to the Commission shall be used only for the purposes for which it was provided and there is no provision in the Regulation that would require that data to be made public.

Both the need to avoid giving third countries information that compromises the freezing measures' effectiveness to deter and respond to cyber-attacks and the fact that there is no indication whatsoever in Regulation (EU) 2019/796 that publication of the information provided to the competent authorities would be a purpose of Article 8, justify the conclusion that public access to the data provided to the Commission, is not in line with the Regulation.

Taking into account that restrictive measures concern international relations and that the cyber-attacks with a significant effect constitute an external threat to the Union or its Member States, disclosure of the relevant data that the competent authorities provided to the Commission, should be refused because public access to these data would undermine the public interest as regards public security and/or international relations.

#### *Privacy*

To the extent that the data provided to the Commission contain, exceptionally, an indication of both the name of the owner of frozen funds or economic resources and the value of that person's funds or economic resources, the data constitute personal data as defined in point 1 of Article 3 of Regulation (EU) 2018/1725.

Public access to such personal data should be refused because it would undermine the protection of the privacy and the integrity of the individual.

#### *Partial access*

Pursuant to Article 4(6) of Regulation (EC) No 1049/2001, I have considered whether partial access to the requested document could be granted. However, no meaningful partial access can be provided without undermining the above-mentioned protected interests.

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 Secretary-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 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu) .

Yours sincerely,

(e-signed)

John BERRIGAN