



EUROPEAN COMMISSION

Brussels, 3.4.2023
C(2023) 2465 final

Mr Schindler Mathias
Hermann Mattern-Promenade 25
14469 Potsdam
Germany

**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 under Regulation
(EC) No 1049/2001 – GESTDEM 2021/5170 and 5171**

Dear Mr Schindler,

I am writing to you in reference to your e-mails of 3 September 2021, registered on the same day, by which you lodged the confirmatory applications in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereinafter ‘Regulation (EC) No 1049/2001’).

We apologise for the delay in replying to your requests.

1. SCOPE OF YOUR REQUEST

In your initial application of 23 August 2021, registered under GESTDEM 2021/5170, you requested access to, I quote:

‘On January 26, Germany submitted a notification concerning a formulation aid for an amendment to insert a research clause in the draft Copyright Service Provider Act. The notification number is 2021/38/D. I would like to request all information concerning this notification held by the European Commission and its DGs and Agencies. This includes all internal and external conversation in email, writing, notes, memos, briefings as well as any inter- or intra-service-consultation.’

¹ OJ L 345, 29.12.2001, p. 94.

² OJ L 145, 31.05.2001, p. 43.

In your other initial application of 23 August 2021, registered under GESTDEM 2021/5171, you requested access to, I quote:

‘On January 28, Germany submitted a notification concerning and amendment of the Network Enforcement Act with regard to information for scientific research. The notification number is 2021/45/D. I would like to request all information concerning this notification held by the European Commission and its DGs and Agencies. This includes all internal and external conversation in email, writing, notes, memos, briefings as well as any inter- or intra-service-consultation.’

Given the material scope of your initial applications, their processing was attributed to the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs.

In its reply to your initial applications, dated 1 September 2021, the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs informed you that it had identified the following documents held by the European Commission falling within the scope of your application and granted full access to them:

1. Supplementary information request of the European Commission related to the ‘Formulation aid for an amendment to insert a research clause in the draft Copyright Service Provider Act’, notified by Germany under notification 2021/38/D to the European Commission, Ares(2021)5392307 (hereafter ‘document 1’);
2. Response of the German authorities to the supplementary information request of the European Commission related to the ‘Formulation aid for an amendment to insert a research clause in the draft Copyright Service Provider Act’, notified by Germany under notification 2021/38/D to the European Commission, Ares(2021)5392307 (hereafter ‘document 2’);
3. Observations issued by the European Commission related to the ‘Formulation aid for an amendment to insert a research clause in the draft Copyright Service Provider Act’, notified by Germany under notification 2021/38/D to the European Commission, Ares(2021)5392307 (hereafter ‘document 3’);
4. Supplementary information request of the European Commission related to the ‘Amendment of the Network Enforcement Act with regard to information for scientific research’, notified by Germany under notification 2021/45/D to the European Commission, Ares(2021)5392307 (hereafter ‘document 4’);
5. Response of the German authorities to the supplementary information request of the European Commission related to the ‘Amendment of the Network Enforcement Act with regard to information for scientific research’, notified by Germany under notification 2021/45/D to the European Commission, Ares(2021)5392307 (hereafter ‘document 5’);
6. Observations issued by the European Commission related to the ‘Amendment of the Network Enforcement Act with regard to information for scientific research’, notified by Germany under notification 2021/45/D to the European Commission, reference Ares(2021)5392307 (hereafter ‘document 6’).

The abovementioned documents have been notified to the European Commission within the framework of Directive (EU) 2015/1535³.

In your confirmatory application, you question the completeness of the list of documents identified by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs.

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 review of the reply issued by the service in charge of the processing of the initial application concerned.

Further to this review in relation to your initial applications at issue, the Secretariat-General confirms that, in addition to the six documents identified by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs at the initial stage, the following two documents held by the European Commission also fall within the scope of your request:

- Notification 2021/38/D- Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015, reference Ares(2021)5761947 (hereinafter ‘document 7’);
- Notification 2021/45/D- Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015, reference Ares(2021)5761947 (hereinafter ‘document 8’).

These two documents are attached to this decision.

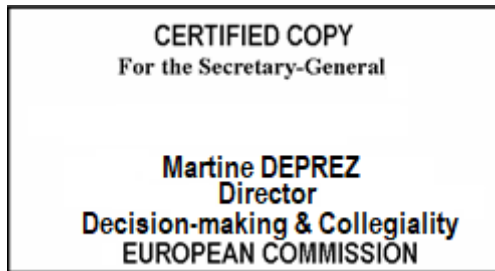
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³ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241 of 17.9.2015, p.1

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
Ilze JUHANSONE
Secretary-General

Enclosures: 2