



EUROPEAN COMMISSION

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Mr Stefan Soesanto
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**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
2021/6015**

Dear Mr Soesanto,

I am writing in reference to your email of 8 November 2021, registered on the same day, 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 10 October 2021, you requested access to, I quote,

‘(1) [t]he number of 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;

(2) [t]he combined approximate 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’.

By letter of 4 November 2021, the Directorate-General for Financial Stability, Financial Services and Capital Markets Union, which handled your request at the initial stage, informed you that the European Commission does not hold any document falling within the scope of your request.

¹ OJ L 345, 29.12.2001, p. 94.

² OJ L145, 31.05.2001, p. 43.

You submitted your confirmatory application against the lack of documents falling within the scope of your request.

In your confirmatory application, you clarify that you are seeking, I quote, ‘the number of assets frozen and the combined approximate value of the assets frozen’. You refer to two previous applications for public access to documents that you lodged with the European Commission³, concerning the same type of information (i.e., ‘the number of assets frozen’ and the ‘combined value of the assets frozen’). In your view, the lack of relevant documents contradicts a previous reply of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union, dated 27 May 2021, in which the Directorate-General for Financial Stability, Financial Services and Capital Markets Union informed you that the European Commission had received certain data from the competent authorities of the Member States but it did not receive any documents sent by natural and legal persons, entities and bodies pursuant to Article 8 of Council Regulation (EU) 2019/796 of 17 May 2019 concerning restrictive measures against cyber-attacks threatening the Union or its Member States (hereafter ‘Regulation (EU) 2019/796’)⁴.

In your view, I quote, ‘[t]he Commission should be able to provide these two basic numbers to the public [...] as stipulated in Article 8(1) and Article 12(1) of Regulation (EU) 2019/796’. You state that, I quote, ‘these two numbers should also not be covered by Article 8(3) of the same Regulation, as the data is [anonymised] to such a significant degree that it does not include specific information as outlined in Article 8(1) and (2)’.

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

Please note that there is no obligation under Regulation (EU) 2019/796, or any other Regulation based on Article 215 of the Treaty on the Functioning of the European Union, for the European Commission to calculate aggregated data or combined figures on frozen amounts at European Union level. The requested aggregated figures are not therefore reflected in any document held by the European Commission. The European Commission does not make aggregate values of frozen assets public on its webpage concerning restrictive measures⁵.

The purpose of the exchange of data on frozen amounts between the Member States and the European Commission mentioned in Article 12 of Regulation (EU) 2019/796 is to inform the European Commission. The provision of such information relates to the European Commission’s tasks of overseeing the application of Union law.

Whereas the European Commission has received certain data from the competent authorities of some Member States, this data is not sufficient to establish a basis to calculate or extract the

³ Registered under references GESTDEM 2020/6931 and GESTDEM 2021/3472.

⁴ OJ L 129 I, 17.5.2019, p. 1.

⁵ https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions_en.

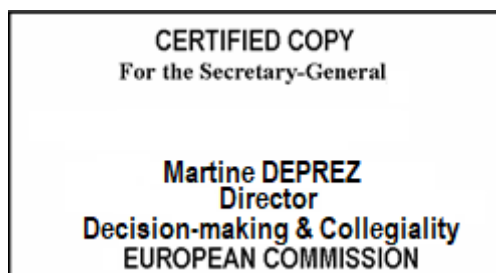
information that you requested, i.e., the number of assets frozen by the Member States and the combined approximate value of the assets frozen in the European Union. Even if the European Commission could extract data by means of a routine search to produce a range or numbers, the available data do not add up to what you are looking for.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution. Moreover, as clarified by the Court of Justice in its ruling in Case 127/13⁶, the institution does not have the obligation to draw up an inexistent document following a request under Regulation (EC) No 1049/2001.

Given that the European Commission does not hold any such documents corresponding to the description given in your application, it is 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 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

⁶ Judgment of the Court of Justice of 2 October 2014, *Strack v Commission*, C.127/13, EU:C:2014:2250 paragraphs 46 and 47.