



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

The Director-General

Brussels,
DG CONNECT/RM/AMF/sg

Mr. Orestis BEKAS

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Subject: Your application for access to documents – Ref GestDem No 2013/6336 under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents

Dear Sir,

We refer to your e-mail dated 20/11/2013 wherein you make a request for access to documents, registered by our services on 16/12/2013 under the above mentioned reference number.

Your request concerns the following documents:

1. Data subjects requests pursuant to article 13 of Regulation 45/2001 lodged with the DG CNECT R.4 'Compliance' Unit in 2013 (this year), in which requests the Data Protection Officer was one of the several listed recipients.

Please note that our services already provided you with a reply to a very similar request under GESTDEM No 2013/3776 concerning "*A partial copy of the data subject requests pursuant to articles 12(1) and 13 of Regulation No 45/2001 lodged from 1/1/2012*" and "*The documents with which DG CONNECT requested the opinion of the DPO about the data subject requests under #9 above, including all annexes thereto*".

The requested document(s) cannot be disclosed in accordance with Regulation 1049/2001 as its disclosure would undermine the protection of the privacy and integrity of the individual, as specified in Article 4.1(b): "*the institution shall refuse access to a document where disclosure would undermine the protection of [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.*"

Furthermore, the Court of Justice has confirmed that where a request based on Regulation 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation 45/2001 become applicable in their entirety, including Articles 8 and 18 thereof. Pursuant to Regulation 45/2001, personal data must be processed fairly

and lawfully. Any processing must be necessary and proportionate for a specific purpose. After having analysed your request, we are of the opinion that none of the conditions of Article 5 of Regulation 45/2001, permitting release on a case by case approach, were met.

Please also note that the exception in Article 4.1(b) is an absolute exception not be balanced by an overriding interest.

We would furthermore like to draw your attention to the fact that private access under Regulation 1049/2001 is not possible. This means that public access entails the document being brought into the public domain. Hence, a disclosure of document(s) that have been handled under Regulation 45/2001 would contravene its scope and the procedures for processing personal data foreseen in it.

Therefore, we have concluded that access to the aforementioned document(s) cannot be granted.

2. In the event DG CNECT consulted with Data Protection Officer about the requested under (1), the documents concerning the consultations.

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

Please note that in accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application, with respect to the points that have been answered herewith, requesting the Commission to review the position above.

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
Secretary-General
Transparency Unit SG-B-4
BERL 5/327
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

(eSigned)
Robert Madelin