



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR BUDGET

Strategic Coordination and Communication

Brussels  
BUDG.03/

Ms Madeline O'Brien  
Sent via e-mail only to:  
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**Subject: Access requests GESTDEM 2022/1050 and GESTDEM 2022/1028**

Dear Ms O'Brien,

We requested you to provide a postal address and you replied the following:

"(...) I would like this to be considered as a confirmatory application against your refusal to process my request without a postal address.(...)  
(...) At no point does the Regulation mention that the requester must provide his or her postal address before the request can even be registered.(...)  
(...)Delaying registering a request for want of a postal address in the 21st Century when emails are a common means of communicating with public administrations is an unnecessary impediment. It also serves to delay the processing of requests sent to the institutions, which constitutes an unreasonable and disproportionate impediment to the exercise of the fundamental right of access to EU documents.(...)  
(...)you have not indicated which "procedural requirements" you are referring to, which leaves me little certainty as to which procedural steps I now need to follow in order to exercise my right of access to documents. I am therefore requesting a copy of these requirements in order to know where I stand legally.(...)"

Since 1 April 2014, the submission of a postal address became a mandatory feature for the purpose of making an application for access to documents. We would like to explain why we need your postal address in order to register and handle your application for access to documents:

- Firstly, to obtain legal certainty as regards the date you received the European Commission reply to your application for public access to documents. Article 297 of the Treaty on the Functioning of the European Union (TFEU) states that '[...] decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification.' In line with

this provision, if the Commission does not grant full access to the requested documents, it notifies the reply to the applicant via registered mail with acknowledgement of receipt or via delivery service. This requires an indication of a valid postal address by the applicant;

- Secondly, to apply correctly the Data Protection Regulation (EU) 2018/1725 <sup>1</sup>. Knowing whether the applicant is an EU resident (or not) is necessary for deciding which conditions shall apply for the transmissions of personal data to applicants for access to documents. These conditions are not the same for recipients established in the Union and for recipients in third countries. As the vast majority of the documents requested contain personal data, the Commission cannot ensure the correct application of the data protection rules in the absence of a postal address;
- Thirdly, to apply correctly Regulation (EC) No 1049/2001 <sup>2</sup>. Article 4(1)(b) of that Regulation refers to the protection of the privacy and integrity of the individual and has to be applied in line with the Data Protection Regulation;
- Fourthly, to protect the interest of other citizens and safeguard the principle of good administration. The Commission has to treat all citizens equally by ensuring that the legal framework for public access to documents is respected. For example, it has to verify whether Article 6(3) of Regulation (EC) No 1049/2001 is being evaded by introducing several requests under different identities. Indeed, in its *Ryanair* judgment <sup>3</sup>, the General Court confirmed that Article 6(3) of Regulation (EC) No 1049/2001 cannot be evaded by splitting an application into several, seemingly separate, parts. In addition, the Commission has to make sure that the legal framework is respected and the right of access to documents is not abused by making requests under an invented identity.

The considerations above show that the request for and the consequent processing of the applicant's postal address is not only appropriate, but also strictly necessary for the performance of a task carried out in the public interest within the meaning of Article 5(1)(a) of Data Protection Regulation, namely providing a smooth and effective access to documents.

The Commission has been applying this approach since 1 April 2014, because of numerous problems encountered by the Commission in its previous practice (legal uncertainty, false identities used etc.). We also would like to point out that other institutions, such as the Court of Justice, already ask for a postal address in their respective electronic forms for applications for access to documents.

We therefore kindly reiterate our request to you to provide a full valid postal address, so we can duly register and handle your request. Please note that, once we receive your postal address, we will register your request for access as an initial application for access

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<sup>1</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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39 (hereafter referred to as 'Data Protection Regulation').

<sup>2</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

<sup>3</sup> Judgment of the General Court of 10 December 2010, *Ryanair Ltd v European Commission*, T-494/08 to T-500/08 and T-509/08, EU:T:2010:511, paragraph 34.

to documents in the meaning of Article 6(1) of Regulation (EC) No 1049/2001. The deadline for handling your initial request shall run as from the moment of registration of your application following the submission of your postal address.

Please be also informed that, as your application has not been dealt with yet at the initial level pending the receipt of your postal address, your message cannot be considered a confirmatory application in the meaning of Article 7(2) of Regulation (EC) No 1049/2001.

Thank you in advance.

Yours sincerely,

Access to Documents Team

c.c.: SG Access to Documents