



EUROPEAN COMMISSION

Brussels, 4.7.2023  
C(2023) 4665 final

Mr Anas Ambri  
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Cyprus

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE  
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001<sup>1</sup>**

**Subject: Your confirmatory applications for access to documents under Regulation (EC) No 1049/2001 – EASE 2022/6020, EASE 2022/6374, EASE 2022/6720 and EASE 2023/0429**

Dear Mr Ambri,

I refer to your e-mails of 09/03/2023, 17/03/2023 and 23/03/2023 in which you submitted confirmatory applications in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup> (hereinafter ‘Regulation (EC) No 1049/2001’), registered under the individual reference numbers mentioned in subject.

Please excuse the delay in replying to your applications.

**1. SCOPE OF YOUR APPLICATIONS**

As regards the scope of your applications and their individual treatment at the initial stage by the Commission services concerned, these are summarised in the corresponding sections below.

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<sup>1</sup> Official Journal L 345, 29.12.2001, p. 94.

<sup>2</sup> Official Journal L 145, 31.5.2001, p. 43.

### **1.1. EASE 2022/6020**

In your initial application of 24/10/2022, addressed to the Commission's Directorate-General for Migration and Home Affairs and registered under the reference number EASE 2022/6020, you requested access to

*'documents which contain information on the construction of the accommodation and pre-departure centres in the Menoyia area in Cyprus. Specifically, [...] documents relating to:*

- proposal submitted by the government of Cyprus for financial support to the construction of the centres.*
- correspondence between DG Home and Cypriot authorities, related to funding the construction of the aforementioned centres, in the period from January 2020 until today (October 23rd 2022).'*

On 15/11/2022, the Directorate-General for Migration and Home Affairs informed you that since your application concerned a large number of documents, the statutory time-limit for its processing had to be extended by additional 15 working days, in line with Article 7(3) of Regulation (EC) No 1049/2001.

On 29/11/2022, the Directorate-General for Migration and Home Affairs, pursuant to Article 6(2) of Regulation (EC) No 1049/2001, invited you to clarify the scope of the second part of your application, by asking you to *'confirm whether you [were] referring to January 2020, or January 2022 [...]*'.

In your reply to the Directorate-General for Migration and Home Affairs request for clarification, dated 29/11/2022, you confirmed that the *'period in question starts from January 2020.'*

Due to the Commission's failure to reply to your initial application within the prescribed time-limit, as extended by the Directorate-General for Migration and Home Affairs, on 07/12/2022, you became entitled to make a confirmatory application, in line with Article 7(4) of Regulation (EC) No 1049/2001.

### **1.2. EASE 2022/6374**

In your initial application of 21/11/2022, registered under the reference number EASE 2022/6374, you requested access to

*'documents which contain the following information:*

- minutes from meetings conducted as part of the Integrated Border Management project in Lebanon, from October 2012 until today (October 18th 2022), with representatives of Lebanon's security forces (i.e. Lebanese*

*Armed Forces, Internal Security Forces, General Security, Lebanese Civil Defense)*

- *correspondence with representatives of Lebanon's security forces (i.e. Lebanese Armed Forces, Internal Security Forces, General Security, Lebanese Civil Defense) regarding the Integrated Border Management project in Lebanon, from October 2012 until today (October 18th 2022)- minutes from meetings conducted as part of the Integrated Border Management project in Lebanon, from October 2012 until today (October 18th 2022), with representatives from ICMPD or Frontex’.*

Given the subject matter of your application, its processing was attributed to the Commission’s Directorate-General for European Neighbourhood Policy and Enlargement Negotiations.

On 29/11/2022, the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations, pursuant to Article 6(2) of Regulation (EC) No 1049/2001, invited you to clarify the scope of your application, by requesting the following clarifications:

- ‘– *As regards the timeframe, it could be helpful to precise for which phase of this project: Integrated Border Management in Lebanon, you [were] interested in.*
- *As regards your second question, could you please confirm that you [were] interested in correspondence between “representatives of Lebanon's security forces (i.e. Lebanese Armed Forces, Internal Security Forces, General Security, Lebanese Civil Defense) regarding the Integrated Border Management project in Lebanon” and DG NEAR?*
- *As regards your second question, could you please precise for what kind of correspondence would you be interested in?’*

In your reply to the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations request for clarification, dated 18/11/2022, you agreed *‘to reduce the timeframe [of your application] to the period from January 2020 until today, thus covering phase 3 of the IBM project in Lebanon.’* You also stated that *‘[w]ith regards to [your] second question, [you were] interested in correspondence between “representatives of Lebanon's security forces (i.e. Lebanese Armed Forces, Internal Security Forces, General Security, Lebanese Civil Defense) regarding the Integrated Border Management project in Lebanon” and DG NEAR [and that b]y correspondence, [you] mean[t] any emails (including attachment), correspondence or telephone call notes between your DG (including the Commissioner and the Cabinet) and the aforementioned representatives, including intermediaries representing their interests. This also includes documents prepared for the meetings and exchanged in the course of the meetings between said the aforementioned parties.’*

On 07/12/2022, the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations informed you that due to the fact it had not gathered all the elements necessary to

carry out a full analysis of your application, the statutory time-limit for its processing had to be extended by additional 15 working days, in line with Article 7(3) of Regulation (EC) No 1049/2001.

Due to the Commission's failure to reply to your initial application within the prescribed time-limit, as extended by the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations, on 10/01/2023, you became entitled to make a confirmatory application, in line with Article 7(4) of Regulation (EC) No 1049/2001.

### **1.3. EASE 2022/6720**

In your initial application of 21/11/2022, addressed to the Directorate-General for Migration and Home Affairs and registered under the reference number EASE 2022/6720, you requested access to

*'documents which contain the following information:*

- all meeting notes for meetings conducted as part of the EU Operational Coordination Platform on migration management support to Cyprus (OCP-CY), including meetings of the dedicated Steering Group, as well as all other Working Groups (like the group on first reception), from December 2019, until [21/11/2022]'.*

On 09/12/2022, the Directorate-General for Migration and Home Affairs informed you that due to the fact that some of the documents identified as falling within the scope of your application required third-party consultations, the statutory time-limit for the processing of your application had to be extended by additional 15 working days, in line with Article 7(3) of Regulation (EC) No 1049/2001.

Due to the Commission's failure to reply to your initial application within the prescribed time-limit, as extended by the Directorate-General for Migration and Home Affairs, on 11/01/2023, you became entitled to make a confirmatory application, in line with Article 7(4) of Regulation (EC) No 1049/2001.

### **1.4. EASE 2023/0429**

In your initial application of 23/01/2023, addressed to the Directorate-General for Migration and Home Affairs and registered under the reference number EASE 2023/0429, you requested access to

*'[m]emos, guidance, guidelines, or training material (or any other document) for DG staff on the processing of requests of access to documents under Regulation 1049/2001, from September 2016 until [23/01/2023]'.*

On 13/02/2022, the Directorate-General for Migration and Home Affairs informed you that due to the very large number of documents identified as falling within the scope of your application,

the statutory time-limit for its processing had to be extended by additional 15 working days, in line with Article 7(3) of Regulation (EC) No 1049/2001.

Due to the Commission's failure to reply to your initial application within the prescribed time-limit, as extended by the Directorate-General for Migration and Home Affairs, on 06/03/2023, you became entitled to make a confirmatory application, in line with Article 7(4) of Regulation (EC) No 1049/2001.

In your respective confirmatory applications, you request a review of the abovementioned implicit refusals by the Directorate-General for Migration and Home Affairs and the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations of access to the documents requested in your initial applications.

## **2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001**

When assessing a confirmatory application for access to documents submitted to the Commission under Regulation (EC) No 1049/2001, the Secretariat-General reviews the position of the institution's service concerned at the initial stage with regard to the initial application.

Following this review in relation to your confirmatory applications in question, I regret to inform you that the Secretariat-General has decided to refuse to process your confirmatory applications, based on the principle of prohibition of abuse of rights, enshrined in the European Union Charter of Fundamental Rights<sup>3</sup> (hereinafter 'EUCFR') and recognised by the Court of Justice of the European Union as a general principle of EU law.

The detailed reasons underpinning the Secretariat-General's assessment are set out below.

### **2.1. Public declaration of the purpose of your applications for access to documents submitted to the Commission under Regulation (EC) No 1049/2001**

Please be informed that upon registration of your confirmatory applications, the Secretariat-General acquired information about the existence of a publicly available declaration of the purpose of your requests addressed to public authorities, submitted as part of your exercise of freedom of information.

Specifically, it came to the Secretariat-General's knowledge that you own a website under your name<sup>4</sup>, containing a subsite entitled '*FOI*'<sup>5</sup>, which – in the Secretariat-General's interpretation – stands for 'freedom of information'.

Notably, the Secretariat-General noticed that on that subsite, there is a statement reading as follows:

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<sup>3</sup> Article 54 EUCFR.

<sup>4</sup> Available at: <https://anasambri.com/>

<sup>5</sup> Available at: <https://anasambri.com/foi/>

*‘In an attempt to be as big of a pain in the ass to unjust structures of power, (and maybe tangentially, help bring a bit of accountability to said structures), I have taken up the job of filing freedom of information requests as a pastime.*

*I am listing below some of the most interesting ones.*

*I am also available for hire, if you need help filing your own FOIs.’*

In the Secretariat-General’s view, the abovementioned declaration, as disseminated by you in a public domain, can be deemed as a voluntarily expressed statement of reasons motivating your requests addressed to public administration bodies, aimed at obtaining information about their activities and lodged by you under relevant legislative frameworks.

Accordingly, the Secretariat-General considers that these reasons are intrinsically linked to and underlie your applications for access to documents submitted to the Commission under Regulation (EC) No 1049/2001 – an act of EU law, whose core objective is to guarantee openness and enable citizens to participate more closely in the decision-making process, by giving the fullest possible effect to the right of public access to documents, enshrined in Article 15(3) of the Treaty on the Functioning of the European Union (hereinafter ‘TFEU’)<sup>6</sup> and in Article 42 EUCFR.

Indeed, the fact that the abovementioned declaration of yours is further followed by references to your past applications for access to documents submitted to and processed by the Commission in accordance with Regulation (EC) No 1049/2001, whose records are publicly available on external websites, confirms the accuracy of the Secretariat-General’s interpretation as to the pertinence and applicability of your statement to any of such applications.

Consequently, the Secretariat-General acknowledges that the first paragraph of the abovementioned quote from your personal website denotes the explicit purpose for which you exercise the right of access to documents, guaranteed by TFEU and EUCFR, which is to cause nuisance to the Commission as a public administration body.

## **2.2. Relevance of the reason motivating your applications for access to documents submitted to the Commission under Regulation (EC) No 1049/2001 to the handling thereof by the Commission**

As explained in the previous section of this decision, in the Secretariat-General’s view, the publicly declared purpose of your applications for access to documents submitted to the Commission under Regulation (EC) No 1049/2001 can be interpreted as the explicit reason motivating your individual requests for access to specific Commission documents.

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<sup>6</sup> Recitals 2 and 4 of Regulation (EC) No 1049/2001.

In this respect, it must be recalled, first and foremost, that, as prescribed in Article 6(1) of Regulation (EC) No 1049/2001, when submitting an application for access to documents, ‘[t]he applicant is not obliged to state reasons for the application’.

Indeed, according to the Court of Justice’s interpretation of this provision, ‘*Regulation [(EC)] No 1049/2001 confers a very extensive right of access to the documents of the institutions concerned, there being, in accordance with Article 6(1) of the regulation, no requirement to state reasons for the application in order to enjoy that right*’<sup>7</sup>.

In the same spirit, the General Court has recognised that ‘*in so far as the applicant for access does not have to justify his request for access to the documents, the real interest that the disclosure of the documents at issue may represent for the applicant is also irrelevant for the purposes of Regulation [(EC)] No 1049/2001*’<sup>8</sup>, which also implies that private and individual interests motivating an application for access to documents shall not, in principle, be taken into account by the institution concerned<sup>9</sup>.

Notwithstanding the above, the Secretariat-General considers that, regardless of the lack of obligation to provide reasons motivating an application for access to documents submitted under Regulation (EC) No 1049/2001, a voluntary provision of such reasons by the applicant does have a legal relevance to the institution’s handling of such an application.

As confirmed by case-law, there are instances in the framework of the procedure for the processing of an application for access to documents, provided for in Regulation (EC) No 1049/2001, where the reasons motivating such an application, if expressed by the applicant, must be taken into account in the course of the assessment of the application by the institution and may have a substantive impact on its outcome.

Notably, this applies, for instance, in cases where the applicant attempts to demonstrate the existence of an overriding public interest in disclosure of the documents requested<sup>10</sup> or where, in a confirmatory application, the applicant puts forward reasons casting doubt on the

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<sup>7</sup> Judgment of the Court of Justice of 13 January 2022 in case C-351/20 P, *Dragnea v European Commission*, paragraph 72; judgment of the Court of Justice of 26 January 2010 in case C-362/08 P, *Internationaler Hilfsfonds v Commission*, paragraph 56.

<sup>8</sup> Judgment of the General Court of 27 November 2018 in joined cases T-314/16 and T-435/16, *VG v Commission*, paragraph 56; judgment of the General court 26 April 2016 in case T-221/08, *Strack v Commission*, paragraph 252.

<sup>9</sup> Judgment of the General Court joined cases T-314/16 and T-435/16, cited above, paragraph 55; judgment of the General Court of 13 November 2015 in joined cases T-424/14 and T-425/14, *ClientEarth v Commission*, paragraph 121; judgment of the Court of Justice of 1 February 2007 in case C-266/05, *Sison v Council*, paragraphs 31 and 47.

<sup>10</sup> Judgment of the Court of Justice of 2 October 2014 in case C-127/13, *Strack v Commission*, paragraph 128; judgment of the Court of Justice of 14 November 2013 in joined cases C-514/11 P and C-605/11 P, *LPN and Finland v Commission*, paragraph 94; judgment of the General Court of 5 October 2022 in case T-214/21, *Múka v European Commission*, paragraph 66; judgment of the General Court of 1 February 2023 in case T-354/21, *ClientEarth v Commission*, paragraph 92.

institution's initial refusal of access to the documents requested<sup>11</sup>. Similarly, it also has effect in situations where the trivial nature of the reasons motivating an application for access to documents, as expressed by the applicant, may be taken into consideration by the institution while attempting to reduce the scope of such an application, in order to reconcile the interests of the applicant with those of good administration<sup>12</sup>.

Having regard to the above, the Secretariat-General deems it justified for the Commission to take into account the individual reasons motivating an application for access to documents submitted to it pursuant to Regulation (EC) No 1049/2001, as voluntarily and explicitly expressed by the applicant in the public domain, and to give them a due consideration in the course of the handling of that application.

Finally, this conclusion of the Secretariat-General is further substantiated by the relevant finding of the General Court, which clarifies that *'the right of access to documents of the institutions, as enshrined and guaranteed by the Treaties, is not a general and absolute right, but may be subject to limitations and restrictions'*<sup>13</sup>.

Consequently, as part of its handling of your confirmatory applications in question, the Secretariat-General attaches a due relevance to the reason motivating their submission, quoted in the previous section of this decision.

### **2.3. Assessment of the reason for your confirmatory applications in view of the purposes and objective of Regulation (EC) No 1049/2001**

As pointed out in section 2.1 of this decision, according to your public declaration, the explicit reason for which you exercise the right of public access to documents and submitted your confirmatory applications in question is your intention to cause nuisance to the Commission as a public administration body.

In this context, the Secretariat-General notes that in your public declaration, you indicate that, in parallel to your pursuit of the abovementioned objective, you may also *'maybe tangentially, help bring a bit of accountability'*. However, as you acknowledge that this objective is to be attained only 'maybe tangentially', in the Secretariat-General's view, this part of your statement is, at best, of a subsidiary nature and does not express an actual intention behind your endeavour. Therefore, the Secretariat-General concludes that this sentence is to be understood as a mere acknowledgement by you of the fact that your applications for access to documents, if processed by the Commission, may result in granting access to the institution's documents, while your use of the verb 'tangentially' conveys your indifference as to whether the outcome of your applications in such a scenario would be positive or negative.

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<sup>11</sup> Judgment of the Court of first Instance of 6 April 2000 in case T-188/98, *Kuijer v Council*, paragraph 46.

<sup>12</sup> Judgment of the General Court of 13 April 2005 in case T-2/03, *Verein für Konsumenteninformation v Commission*, paragraph 101.

<sup>13</sup> Judgment of the General Court of 3 May 2018 in case T-653/16, *Malta v Commission*, paragraph 160.



Thus, the Secretariat-General takes into account the declared primary purpose of your applications.

The Secretariat-General recalls that the right of public access to documents is a fundamental right guaranteed by TFEU and EUCFR, whose relevant provisions state that *‘[a]ny citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union’s institutions, bodies, offices and agencies, whatever their medium’*.

Notably, this right stems from and is inextricably linked to the concept of openness<sup>14</sup>, introduced in Article 1 and Article 10(3) of the Treaty on European Union (hereinafter ‘TEU’), which state that, in the EU, *‘[d]ecisions are taken as openly as possible and as closely as possible to the citizen.’*

This right, however, as mentioned in the previous section of this decision, is not an absolute right, but it is *‘subject to the principles and the conditions’*<sup>15</sup>.

Notably, the *‘[g]eneral principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the European Parliament and the Council, by means of regulations’*<sup>16</sup>, the purpose for which Regulation (EC) No 1049/2001 was conceived and adopted by the EU legislator.

Indeed, as provided in Article 1 of Regulation (EC) No 1049/2001, *‘[t]he purpose of [the r]egulation is [...] to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission [...] documents provided for in Article [15(3) TFEU] in such a way as to ensure the widest possible access to documents, [...] to establish rules ensuring the easiest possible exercise of this right, and [...] to promote good administrative practice on access to documents.’*

In this context, the Court of Justice has interpreted the abovementioned provision so as to *‘provide[...] that the purpose of [Regulation (EC) No 1049/2001] is to confer on the public as wide a right of access as possible to documents of the EU institutions’*<sup>17</sup>.

Nevertheless, the Court of Justice has also defined Regulation’s (EC) No 1049/2001 core objective.

Specifically, in its judgment quoted above, the Court of Justice found that *‘in accordance with recital 1 thereof, Regulation [(EC)] No 1049/2001 reflects the intention expressed in the second paragraph of Article 1 TEU to mark a new stage in the process of creating an ever closer union*

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<sup>14</sup> Recitals 1 and 2 of Regulation (EC) No 1049/2001.

<sup>15</sup> Article 15(3) TFEU

<sup>16</sup> *Idem*.

<sup>17</sup> Judgment of the Court of Justice of 4 September 2018 in case C-57/16 P, *ClientEarth v European Commission*, paragraph 76.

*among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen*<sup>18</sup>.

As interpreted further by the Court of Justice in the same judgment, *‘[t]hat core EU objective is also reflected in Article 15(1) TFEU, which provides that the institutions, bodies, offices and agencies of the European Union are to conduct their work as openly as possible, that principle of openness also being expressed in Article 10(3) TEU and in Article 298(1) TFEU, and in the enshrining of the right of access to documents in Article 42 of the Charter*<sup>19</sup>.

Finally, it must also be noted that the Court of Justice has clarified that this *‘openness enables the EU institutions to have greater legitimacy and to be more effective and more accountable to EU citizens in a democratic system. By allowing divergences between various points of view to be openly debated, it also contributes to increasing those citizens’ confidence in those institutions*<sup>20</sup>.

In light of the above considerations, the Secretariat-General concludes that, although the reason for which you exercise your right of access to documents and submitted your confirmatory applications does not undermine directly the first two purposes of Regulation (EC) No 1049/2001, which are to ensure the widest possible access to the institutions’ documents and the easiest possible exercise of the right of access to those documents, it does undermine the other, remaining purpose, namely to promote good administrative practice on access to documents.

Indeed, the promotion of good administrative practice on access to documents by the Commission entails, among others, that the Commission must preserve strong administrative capacities in order to maintain its efficiency in the processing of applications for access to documents, which is crucial for ensuring the widest possible access to its documents and the easiest possible exercise of the right of access to those documents by citizens.

In the Secretariat-General’s view, the submission by you of your confirmatory applications with the sole purpose of causing nuisance to the Commission – followed by their eventual processing by the institution – ultimately weakens the Commission’s administrative capacities, therefore bringing an effect opposite to the one mentioned above.

It must be noted, in this regard, that, according to the Court of Justice, *‘[a]n institution must therefore retain the right[...] to balance the interest in public access to the documents against the burden of work so caused, in order to safeguard[...] the interests of good administration*<sup>21</sup>.

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<sup>18</sup> *Ibid.*, paragraph 73.

<sup>19</sup> *Ibid.* paragraph 74.

<sup>20</sup> Judgment of the Court of Justice of 1 July 2008 in case C-39/05 P, *Sweden and Turco v Council*, paragraphs 45 and 59.

<sup>21</sup> Judgment of the Court of first Instance of 13 April 2005 in case T-2/03, *Verein für Konsumenteninformation v Commission*, paragraph 102.

Finally, the Secretariat-General considers that the reason for your confirmatory applications also runs against the objective of Regulation (EC) No 1049/2001, as interpreted by the Court of Justice and recalled above.

Indeed, the Secretariat-General qualifies your intention to cause nuisance to the Commission as a public administration body as abusive of and contradictory with the principle of openness, which constitutes the core objective of Regulation (EC) No 1049/2001.

#### **2.4. Identified abuse of the right of access to documents in the applications in question**

The general provisions governing the interpretation and application of EUCFR<sup>22</sup> establish the principle of prohibition of abuse of rights, which provides that *‘[n]othing in [EUCFR] shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in [EUCFR] or at their limitation to a greater extent than is provided for herein.’*<sup>23</sup>

It must be underlined that this principle has been recognised by the Court of Justice as a general principle of EU law<sup>24</sup>.

Certainly, the principle of prohibition of abuse of rights can be applied to the right of access to documents, which is a right enshrined in EUCFR and, due to the fact that it is subjected to conditions and limits, it is a right which is not absolute<sup>25</sup>, therefore open to abuse.

As regards the practical application of the principle of prohibition of abuse of rights, the Court of Justice has consistently held that *‘EU law cannot be relied on for abusive or fraudulent ends’*<sup>26</sup>. In this respect, the Court of Justice has also clarified that *‘individuals cannot rely on the rights conferred by EU rules for abusive ends in order to obtain advantages resulting from those rights without the objective of those rules being achieved.’*<sup>27</sup>

The Secretariat-General acknowledges, therefore, that exercise by an individual of a fundamental right in an attempt to achieve a purpose or obtain a benefit which – although derived from formal compliance with the law ensuring the exercise of this right – lies beyond and contradicts this law’s objective, constitutes an abuse of the right and shall be prohibited.

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<sup>22</sup> Title VII EUCFR.

<sup>23</sup> Article 54 EUCFR.

<sup>24</sup> Judgment of the Court of Justice of 6 February 2018 in case C-359/16, *Altun and Others*, paragraph 49; opinion of Advocate General Szpunar of 6 June 2018 in case C-149/17, *Bastei Lübbe v Strotzer*, paragraph 44.

<sup>25</sup> Judgment of the General Court of 25 January 2023 in case T-163/21, *De Capitani v Council*, paragraphs 39, 42 and 43.

<sup>26</sup> Judgment of the Court of Justice of 2 May 1996 in case C-206/94, *Brennet AG v Paletta*, paragraph 24; judgment of the Court of Justice of 21 February 2006 in case C-255/02, *Halifax and Others*, paragraph 68; judgment of the Court of Justice of 12 September 2006 in case C-196/04, *Cadbury Schweppes*, paragraph 35; judgment of the Court of Justice of 28 July 2016 in case C-423/15, *Kratzer*, paragraph 37.

<sup>27</sup> Judgment of the Court of Justice of 6 February 2018 in case C-359/16, *Altun and Others*, paragraph 49; opinion of Advocate General Szpunar of 6 June 2018 in case C-149/17, *Bastei Lübbe v Strotzer*, paragraph 44.

Consequently, the Secretariat-General concludes that your exercise of the right of public access to documents and submission of the confirmatory applications in question for the sole<sup>28</sup> purpose of causing nuisance to the Commission as a public administration – regardless of its formal compliance with Regulation (EC) No 1049/2001 – undermines the principle of openness, which is the objective of this regulation, therefore constituting an abuse of this right within the meaning of Article 54 EUCFR.

Please note that, as explained in the previous section of this decision, the abovementioned principle of openness enables the EU institutions to, *inter alia*, be more effective. In this context, it must be underlined that the resources of the Commission as a public administration body are limited. Nevertheless, the Commission remains bound by the obligation to safeguard the interests of good administration and to ensure that the right of access to documents is effectively and properly exercised by other applicants. Importantly, this conclusion has been confirmed by the Court of Justice, which has recognised that ‘*the institutions may, in specific cases, rely on the interests of good administration after weighing the interests of the applicant for access to the documents and the workload which would result from processing his application.*’<sup>29</sup>

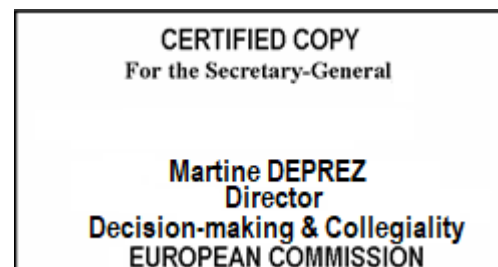
Against this background, the Secretariat-General has decided to refuse to process your confirmatory applications in question.

### **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 TFEU.

Yours sincerely,

*For the Commission*  
*Ilze JUHANSONE*  
*Secretary-General*



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<sup>28</sup> In none of your confirmatory applications do you declare any other reasons motivating their submission.

<sup>29</sup> Judgment of the Court of Justice of 2 October 2014 in case C-127/13, *Strack v Commission*, paragraph 113.