



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

The Director-General

Brussels, 02/05/2023
DG JUST (2023)4420430

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Subject: Your application for access to documents – EASE 2023/2065

Dear Sir,

We refer to your request for access to documents, registered on 04/04/2023 under the above mentioned reference number.

You request access to: *‘The Irish response to the spyware mapping questionnaire dated 21/12/2022.’*

Your application concerns the following document:

- Reply from Ireland, Ares(2023)992264

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents¹, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

According to **Article 4(2), third indent of Regulation (EC) No 1049/2001**, the *‘institutions shall refuse access to a document where disclosure would undermine the protection of the purpose of inspections, investigations and audits’*.

The document which you seek to obtain is currently part of an ongoing assessment by the European Commission in relation to the use of Pegasus and equivalent surveillance spyware by all Member States. Disclosure at this point in time would affect the climate of mutual trust between the authorities of the Member State in question and the Commission and would risk to prematurely alter the nature of the assessment. The Commission must retain its possibility to hold discussions with the relevant authorities without being obliged to disclose documents related to that. Otherwise the ongoing dialogue with the relevant

¹ 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. 43–48.*

authorities could be negatively influenced. This is all the more important given the very sensitive nature of the issue in question.

While the exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an **overriding public interest** in disclosure of the document, you have not put forward any specific circumstance that shows that there is an overriding public interest which would justify the disclosure of the document.

Therefore, the exception laid down in Article 4(2), third indent of Regulation (EC) No 1049/2001 applies to this document.

We have considered whether **partial access** could be granted to the document requested. In our view, disclosure of an redacted version of the document requested may lead to speculations. It would generate an unwarranted pressure on the European Commission.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal² account (available only for initial requests submitted via the portal account),

by mail:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

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

Yours faithfully,

(e-signed)
Ana GALLEGO

² <https://www.ec.europa.eu/transparency/documents-request>