



EUROPEAN COMMISSION

LEGAL SERVICE
The Director General

Brussels, 16. 03. 2015

By e-mail:

Mr Kieran Fitzpatrick
[REDACTED]

Subject: Request for access to documents

Ref.: Your e-mail of 8 January 2015, registered under reference GESTDEM 2015/225

Dear Mr. Fitzpatrick,

I refer to your email of 8 January 2015, which was registered as GESTDEM 2015/225 on 04 February 2015 by the Secretariat General after you transmitted your postal address to it. In your email you make a request for access under Regulation N° 1049/2001¹ to information concerning the detail of all costs paid/payable by the United Kingdom to the European Commission following CJEU case C-530/11 *Commission v UK*. As you mention in your email, you have first contacted the UK Cabinet Office in order to obtain this information. According to your email, the reply of the UK Cabinet office was "[...] no costs will be incurred by the UK, owing to a convention between the Member States and the EU institutions whereby costs orders are made by the Court, but they are not enforced so have no practical effect". You have then introduced a request for access to documents to the Commission to receive in particular the following information:

1. *The name of this convention, the text of the convention and details of all signatories of the convention and the dates of accession.*
2. *When and how the Commission brought this convention to the attention of the EU citizenry (eg. plans, communications).*
3. *Which institution or body coordinated this convention.*
4. *Who instigated the convention, what reasons were advanced for this provision of the convention and when (such as communications from member states and/or with the Commission).*
5. *Any and all policy considerations submitted to the coordinator of the convention by Ireland, the UK and Germany.*

¹ Regulation N° 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, 31.05.2001, page 43).

I have to first inform you that there is not as such an official Convention concluded between the EU institutions and the Member States concerning the legal costs claims.

The Commission's line of conduct to waive its right to recovery of legal costs where the party ordered to pay costs was a Member State was established by the European Commission during its meeting of 6 January 1982. This decision was elaborated by Commission decision C(82)333, adopted on 25 March 1982 by written procedure E/284/82, which replaced its decision of 6 January by the following:

"Recovery of legal costs

The Commission hereby decides to waive its right to recovery of legal costs which Member States owe to the Commission by virtue of an order of the Court of Justice, in so far as the Member States also waive their rights to recovery of legal costs due to them by the Commission.

Should a Member State request payment of such costs, the Legal Service shall inform Financial Control of it and together they shall make new proposals in this matter.

The general waiver of the right to recover legal costs due by the Member States dispenses the authorizing officer from establishing the corresponding acknowledgements of receipt."

For your information, you will find enclosed copy of the document C(82)333.

The justification of this rule has been explained in more details by Mr Delors in reply to a written question from Mrs Dury². According to Mr Delors, "[...] in the Commission's view, the practice is justified on two counts. It guarantees the efficiency of Court proceedings and is in the interests of sound financial management. [...]". For your information, you will find enclosed a copy of this written question together with Mr. Delors' answer.

I hope this answers your questions.

Yours sincerely,



Luis ROMERO REQUENA

Enclosures: 2

² Question n° 2256/91, OJ C102, 22.04.1992, p. 39-40.