



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Ref. Ares(2016)1054479 - 01/03/2016

Directorate C : Fundamental Rights and Union Citizenship
Unit C1 : Fundamental Rights and Rights of the Child
Head of Unit

01 MARS 2016

Brussels,
JUST/C1/SSU/hk(2016)s 1179928

By registered mail with receipt:

Mr James Panichi
Politico
Rue de la Loi 62
1040 Brussels
Belgium

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2016/0285

We refer to your e-mail dated 04/01/2016 in which you make a request for access to documents, registered on 22 January 2015 under the above mentioned reference number.

In this request you refer to "correspondence between the Commission's Paul Nemitz and FRA."

We have already replied to your request with letter of 11 February 2016 explaining that we will need more time to deal with it as large files had to be examined to retrieve all relevant documents.

After having carried out a thorough electronic and paper search we confirm that we have identified many documents, all of which need to be analysed individually. Of these documents, 96 contain newsletters of the FRA that have been circulated to its stakeholders with summaries of FRA news. These news events (but not their summaries) are available on FRA's website¹. However, the newsletters contain personal data of FRA contact persons which would need to be individually removed to ensure the protection of personal data as required by Regulation (EC) 45/2001. We have attached three examples of such newsletters. Please let us know if you intend your request to also cover the remaining newsletters or not. If you require them, please indicate equally if your request is limited to newsletters of the year 2012.

¹ <http://fra.europa.eu/en/news-and-events>

As regards the remaining documents, please note that most of them contain additional attachments which also need to be analysed. Furthermore, most of them stem from the FRA and thus the latter needs to be consulted before handing out any of them.

Such a detailed analysis cannot be carried out within the normal time limits set out in Article 7 of Regulation 1049/2001. However, the Regulation also provides for a possibility to confer with applicants in order to find a fair solution when an application relates to a very long document or concerns a very large number of documents. Article 6(3) provides that in the event of an application relating to a very long document or to very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

In accordance with the case law of the EU Courts, such a solution can only concern the content or the number of documents applied for, not the deadline for replying.²

Based on this provision, we would kindly ask you, pursuant to Article 6(3) of Regulation 1049/2001, whether you could narrow down the scope of your request (i.e. the subject matter(s) and/or timeframe covered), so as to reduce it to a more manageable amount of documents. In particular, in view of the circumstances of your original request (GestDem 2015/5958) which was limited to specific documents in the year 2012, could you please confirm if your current request, which expanded the range of documents, is also limited to that year 2012?

If that is not possible and if you consider your request for access to documents to cover the period 2011-2016, we propose to handle your application in successive stages. If you accept this proposal, you could indicate an order of priority, which we would try to follow as much as possible in handling your application. This means that parts of your application would be considered to have been introduced in successive stages and will be dealt with within the corresponding new time-limits. You would in that case receive, at regular intervals, batches of documents which have been cleared for full or partial release and/or a reasoned reply explaining why some (parts of the) documents cannot be disclosed. In view of this, we would already send you a first batch of documents by Monday 7 March 2016.

In order to enable us to respect the time-limits of Regulation 1049/2001, we would ask you for a swift reply to our invitation to propose a fair solution:

- by email to: JUST-CHARTe@ec.europa.eu
- by postal mail to: DG JUST, Unit C1, Rue Montoyer/Montoyerstraat 59, B-1000 Bruxelles/Brussel

Similarly, if you have any questions concerning the invitation, you can contact us:

- by email at: JUST-CHARTe@ec.europa.eu

In the absence of a reply by the time-limits of Regulation 1049/2001, we will unilaterally apply a method of consecutively covering the documents you referred to, i.e. sending you

² Judgment of the Court of Justice of 2 October 2014 in case C-127/13, *Guido Strack v Commission*, paragraphs 26-28.

the remaining documents in batches at regular intervals. In total the search will cover all years during which Paul Nemitz as Member of the Management Board at the FRA has had communication exchanges with the European Agency for Fundamental Rights (FRA), i.e. from 2011 until today.

Thank you in advance for your understanding.



Chiara Adamo

Annex:

- List of documents of 2012 falling into the scope of request GestDem No 2016/0285
- 3 examples of newsletters sent by FRA