



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary general

Brussels,
SG.B.5/BdC/psi – sg.dsg1.b.5(2013)1921276

Mr Walter Stanish

by email only:
ask+request-260-b2e7ec30@asktheeu.org

Subject: Confirmatory application for access to documents under Regulation 1049/2001 - Gestdem 2012/5241

Dear Mr Stanish,

I refer to your email of 28 February 2013, registered on 15 March 2013, in which you lodge a confirmatory application, pursuant to Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents¹, for a review of a reply from the Directorate-General for Home Affairs to your request for access to documents generally concerning the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

1. SCOPE OF THE REQUEST

Your application refers, under numbers 1.0, 1.1, 1.2, 2.0 and 3.0, to a specific case reported by a Danish newspaper on February 26, 2012.

Under 4.0, 4.1, and 4.2, your application requests any and all information on matters generally concerning SWIFT and the functioning of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (TFTP), signed on June 28, 2010.

2. EXAMINATION AND CONCLUSION

As regards your request under numbers 1.0, 1.1, 1.2, 2.0 and 3.0, and after having consulted the Directorate-General for Home Affairs, I confirm that the Commission has no particular knowledge of this specific case and, therefore, possesses no document related to this case or any similar cases.

In this respect, your confirmatory application is devoid of purpose.

¹ OJ L145, 31.05.2001, p.43.

As regards the functioning of the TFTP Agreement, you might be aware of the fact that Article 13 of the Agreement foresees a regular joint review of the safeguards, controls, and reciprocity provisions set out in this Agreement.

In particular, pursuant to the second paragraph of Article 13 of the Agreement,

"The review shall have particular regard to (a) the number of financial payment messages accessed, (b) the number of occasions on which leads have been shared with Member States, third countries, and Europol and Eurojust, (c) the implementation and effectiveness of this Agreement, including the suitability of the mechanism for the transfer of information, (d) cases in which the information has been used for the prevention, investigation, detection, or prosecution of terrorism or its financing, and (e) compliance with data protection obligations specified in this Agreement. The review shall include a representative and random sample of searches in order to verify compliance with the safeguards and controls set out in this Agreement, as well as a proportionality assessment of the Provided Data, based on the value of such data for the investigation, prevention, detection, or prosecution of terrorism or its financing. Following the review, the European Commission will present a report to the European Parliament and the Council on the functioning of this Agreement, including the areas mentioned in this paragraph."

Such reviews have so far led to two reports from the European Commission Services to the European Parliament and the Council, respectively on March 30, 2011 and December, 14, 2012.

I am pleased to enclose these two reports.

I hope that we have herewith satisfied your request.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Catherine Day", with a stylized flourish at the end.

Catherine Day

Enclosures: 2