



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

*Registered mail with
acknowledgement of receipt*

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09. 03. 2016
Brussels,
GROW/C4/SPR/cds(2016)1202991

Subject: Your applications for access to documents pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents – Ref No GestDem 2016/817

Dear Mr Schindler,

Thank you for your e-mail dated 17 February 2016 which was registered at the Internal Market, Industry, Entrepreneurship and SMEs Directorate-General of the European Commission on 18 February 2016, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

1. Scope of the requests

Your e-mail requested access to documents falling under the following scope:

“all information related to "defeat devices" or "cycle beating" in relation to Commission Directive 2001/27/EC”.

To obtain a more specific scope, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs sent you a precision request on 22 February. The reply to this request, received on 22 February, specified that the request covers "all information the Commission holds in relation to the drafting process of Commission Directive 2001/27/EC". A further precision request was sent on 23 February, and following the reply received from you on 23 February, the scope was further set to cover "documents originating from before 10 April 2001".

2. Description of documents identified

We have identified two documents falling under the scope of your request, i.e. the following:

Summary record of the 63rd meeting of the Motor Vehicles Committee held in Brussels on 13 October 2000

Summary record of the 64th meeting of the Motor Vehicles Committee held in Brussels on 17 November 2000

3. Non-disclosure of the requested documents

After having carefully examined these documents, I hereby inform you that unfortunately, we cannot disclose them. I refer you to the exception to the right of access as foreseen in Article 4(3), second subparagraph of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, according to which access shall be refused if the "if disclosure of the document would seriously undermine the institution's decision-making process". The minutes contain detailed descriptions of the statements made by the Member States at the two meetings.

Furthermore, the Standard Rules of Procedure for Committees¹, which the Commission adopted pursuant to Article 9 of Regulation (EU) No 182/2011, contain specific confidentiality requirements, which explicitly exclude the positions of individual Member States' representatives from public access:

- Articles 10(2) and 13(2) of the Standard Rules of Procedure for Committees provide, respectively, that summary records of meetings *shall not mention the position of individual members² in the committee's discussions*, and that *the committee's discussions shall be confidential*.

It follows that access to the documents would undermine the decision-making process protected by Article 4(3), second subparagraph of Regulation 1049/2001, and that access has to be refused on that basis.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the documents concerned, which outweighs the interest protected by the exception to the right of access. In this case the Commission has reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

The possibility of granting partial access in accordance with Article 4(6) of regulation (EC) No 1049/2001 has also been examined. However, this is not considered possible since the document in question is covered by the above- mentioned exception in its entirety.

¹ Standard Rules of Procedure for Committees - Rules of Procedure for the [name of the committee] Committee, Official Journal C 206/11 of 12.11.2011, p. 11.

² Pursuant to Article 5(1) of the Commission's Standard Rules of Procedure for Committees, each Member State shall be considered to be one member of the committee.

Means of redress

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lowri Evans', with a stylized, flowing script.

Lowri Evans