



EUROPEAN COMMISSION
DIRECTORATE GENERAL
ECONOMIC AND FINANCIAL AFFAIRS

The Director General

Ref. Ares(2017)162723 - 12/01/2017

Brussels, 11 January 2017

By registered letter with
acknowledgment of receipt

Mr Jesús Escudero

Vía de las Dos Castillas, 33. Ática 7.
Planta 1. Oficinas E, F, G y H.
28224 Pozuelo de Alarcón (Madrid)

Advance copy by email

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2016/6016

I refer to your e-mail dated 25/10/2016 in which you make a request for access to documents, registered on 26/10/2016 under the above mentioned reference number.

You request access to

all correspondence (including letters, emails, phonelogs, minutes of meetings...) between Commissioner Pierre Moscovici or his cabinet since 1 November 2014 with:

- the Spanish Prime Minister Mariano Rajoy or his cabinet.
- the Spanish Deputy Prime Minister Soraya Sáenz de Santamaría or her cabinet.
- the Spanish Minister of Economy Luis de Guindos or his cabinet.

I consider your request to cover documents held up to the date of your initial application, i.e. 25/10/2016.

Your application concerns three documents, listed in the annex attached to this letter.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that one of them may be disclosed (document Nr 3 on the list).

For two documents public access has to be refused (documents Nr 1 and Nr 2 on the list). and this with regard to the entirety of each document.

Your request concerns documents drafted in relation to Article 3(2) of the Treaty on Stability, Coordination and Governance (TSCG).

Article 3(2) invites the Commission to propose common principles on the correction mechanisms referred to in Article 3.1(e) of the TSCG. The Commission has issued a Communication on common principles for national correction mechanisms, which is available online:

<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52012DC0342>

Article 8 of the TSCG invites the Commission to present in due time a report on the provisions adopted by each of the Contracting Parties in compliance with Article 3(2) of the TSCG. That report has not been issued at this stage.

In May 2016, the Commission published a press release including information in relation to Article 3(2) of the TSCG:

http://europa.eu/rapid/press-release_MEMO-16-1727_en.htm

A disclosure at this stage would undermine the protection of

- the purpose of an ongoing investigation: indeed, disclosure of the documents at this point in time would affect the climate of mutual trust between the authorities of the Contracting Parties and the Commission, which is required to enable them to resolve any issues regarding compliance with Article 3(2) of the TSCG without having to refer it to the Court of Justice. Therefore the exception laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001 applies to these documents;
- the decision-making process of the Commission which is mandated by the TSCG to present in due time a report on the provisions adopted by each of the Contracting Parties in compliance with Article 3(2) of the TSCG. The decisions underpinning this Commission report have not been taken at this stage and this report has not been issued yet. Therefore the exception laid down in Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001 applies to those documents.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents.

I have examined whether there could be an overriding public interest in disclosure, but I have not been able to identify such an interest.

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 5/282

B-1049 Bruxelles

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

Yours sincerely,



Marco Buti

Director-General

Enclosures

Annex 1:

- list of documents

Annex 2:

- document Nr 3