



EUROPEAN COMMISSION

LEGAL SERVICE
The Director General

Brussels,

Mr Logue Fred
FP Logue Solicitors
8/10 Coke Lane
Ireland

ask+request-4295-44e24728@asktheeu.org

BY E-MAIL AND REGISTERED MAIL WITH ACKNOWLEDGMENT OF RECEIPT

Subject: Request for access to documents

Ref.: Your request of 16 May 2017 registered under reference GestDem 2017/2891

Dear Mr Logue,

I refer to your request for access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹. Your request concerns the documents filed by Ireland in case C-398/15².

I regret to inform you that access cannot be granted to the requested document. The Commission considers that, as far as court proceedings are concerned, Regulation (EC) No 1049/2001 applies only to the institution's own observations. Therefore, observations lodged with the Court by other parties are considered not to fall within its scope.

While the General Court has considered in case T-188/12 *Breyer v Commission* that such documents fall within the scope of Regulation (EC) No 1049/2001³, the Commission has launched an appeal against this judgment before the Court of Justice (C-213/15P), which is still pending⁴. In the meantime, the Commission maintains its view that third parties' submissions to the Court do not fall within the scope of Regulation (EC) No 1049/2001. Indeed, the Commission received only a copy of the requested document by

¹ OJ L 145, 31.05.2001, page 43.

² Judgment of the Court of 9 March 2017 in *Euro Camera di Commercio, Industria, Artigianato e Agricoltura di Lecce v Salvatore Manni*, C-398/15, EU:C:2017:197.

³ Judgment of the General Court of 27 February 2015 in *Patrick Breyer v European Commission*, T-188/12, EU:T:2015:124.

⁴ <http://curia.europa.eu/juris/liste.jsf?num=C-213/15&language=en>

virtue of its quality as a party to Court proceedings pursuant to Article 20 of the Protocol on the Statute of the Court of Justice. Disclosing this type of documents, which were addressed to the Court of Justice in the course of court proceedings and constitute an integral part of the judicial procedure, would undermine the purpose of Article 15(3) TFEU according to which *"the Court of Justice of the European Union...shall be subject to this paragraph only when exercising their administrative tasks"*. For this reason, the judicial documents filed by Ireland cannot be classified as documents within the meaning of Regulation (EC) No 1049/2001. Disclosing these judicial documents would, furthermore, undermine the Rules of Procedure of the Court, where it is provided that only the parties to a case may obtain copies of procedural documents⁵.

Consequently, I regret to inform you that the observations lodged with the General Court by other parties in case C-592/14 cannot be made available to you.

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General 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

The Secretary General will inform you of the result of this review within 15 working days from the date of registration of your request. You will either be given access or your request will be rejected in which case you will be informed of how you can take further action.

Yours sincerely,



Luis ROMERO REQUENA

⁵ Article 22 of the Rules of Procedure of the Court of Justice