



EUROPEAN COMMISSION

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

Single Market Policy, Regulation and Implementation
Director

Brussels, 13.09.2017
GROW/B2/AH/bml (2017) 5008172

Mrs Julia Reda
European Parliament
Bât. Altiero Spinelli
Office 05F158
60 rue Wiertz
B-1047 Brussels

Subject: Your application for access to documents – Notification 2017/127/D - GestDem No 2017/4478

Dear Mrs Reda,

We refer to your e-mail dated 28 July 2017 in which you made a request for access to documents, registered under the above-mentioned reference number, and to our holding reply dated 23 August 2017.

Your application concerns *"all information, including internal and interservice communication of the European Commission regarding or in connection with" the "Draft Act improving law enforcement on social networks [Netzdurchführungsgesetz – NetzDG]"* notified by Germany to the Commission under procedure laid down by Directive (EU) 2015/1535¹ under No 2017/127/D.

I consider your request to cover documents held up to the date of your application.

Please note that, given the wide scope of your request, we are still in the process of consultation with other Commission services and third parties. We will provide you with a complementary reply as soon as the consultation is finished.

The documents ready to be released are listed in the attached table.

The Commission did not react to the notification 2017/127/D, as it is visible at the public TRIS website

<http://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2017&num=127>.

¹ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, *OJ L 241*, 17.9.2015, p. 1

Following the assessment of the relevant documents, please note that 12 documents that fall under the scope of your request are publicly available. These are:

- the German notification 2017/127/D listed at No 1 of the table, which is accessible under the section "Message" via <http://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2017&num=127>; and
- the stakeholders' contributions listed at Nos 3, 4, 7, 8, 10, 11, 12, 13, 14, 17 and 18 of the table, which are accessible under the section "Contributions" via <http://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2017&num=127>.

Having examined the documents Nos 2, 5, 6, 9, 15 and 16 pursuant to Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents², I am pleased to inform you that those documents are disclosed.

Document No 15 originates from the European Commission. You may reuse the documents requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse³.

Documents Nos 2, 5, 6, 9 and 16 originate from third parties. Please note that documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

Some documents to which you have requested access contain personal data. Personal data of non-senior management Commission staff appearing therein has been redacted from the documents disclosed to you, as well as personal data of the third parties with whom the Commission was in correspondence. Pursuant to Article 4(1)(b) of Regulation (EC) 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EC) 45/2001⁴ on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data. When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable⁵. According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the

² Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

³ See the Decision of the Commission of 12 December 2011 (2011/833/EU), OJ L 330/39 of 14 December 2011 for details; this Decision does not apply to documents for which third parties hold the copyrights, Article 2 (2) (b).

⁴ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1.

⁵ Judgment of the Court of Justice of the EU in case C-28/08 P, *Commission/The Bavarian Lager Co. Ltd.*

necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation (EC) 1049/2001, to make a confirmatory application requesting the Commission to review this position. Such confirmatory request has to be submitted to the Secretary-General of the Commission within fifteen working days of receiving this letter.

All correspondence should be sent either electronically to sg-acc-doc@ec.europa.eu or by regular mail to the following address:

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

Yours sincerely,



Joaquim Nunes de Almeida

Enclosures: - 1 table
- 6 documents