



EUROPEAN COMMISSION

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

Director-General

Brussels, **23 MARS 2018**

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***By registered letter with
acknowledgment of receipt***

Mr Erik Wesselius
Corporate Europe Observatory
Rue d'Edimbourg 26
B-1050 Brussels

Advance copy by email:

[ask+request-4915-](mailto:ask+request-4915-c2b1f0b3@asktheeu.org)

c2b1f0b3@asktheeu.org

Subject: Request for access to documents – GESTDEM No. 2018/0222

Dear Mr Wesselius,

Thank you for your e-mail of 22.12.2017 which was registered on 09.01.2018, 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 YOUR REQUEST

Your e-mail requested access to documents as follows:

"1) a list of meetings that Commissioner Elżbieta Bieńkowska, members of her cabinet or representatives of DG GROW had between 1 June 2017 and today with the European Holiday Home Association, HomeAway, WIMDU or Interhome, insofar as these meetings concerned future regulation in the EU of short-term rental, including guidelines developed by the Commission or under development;

2) minutes and any other reports of these meetings;

3) all correspondence, including emails, (from 1 June 2017 till today) between the parties and on the topic stated above."

2. DESCRIPTION OF DOCUMENTS IDENTIFIED

We consider your request to cover documents held up to the date of your initial application, i.e. 22 December 2017.

We have identified 31 documents that match the scope of your request. The lists of these documents are in annex.

Three documents are reports of meetings held between DG Internal Market, Industry, Entrepreneurship and SMEs and the mentioned associations and companies. 28 documents include correspondence between DG Internal Market, Industry, Entrepreneurship and SMEs and the associations and companies at stake.

3. FULL DISCLOSURE OF 17 DOCUMENTS

17 documents are fully disclosed¹. Three of those relate to the meetings held and 14 to correspondence with those associations and companies.

The documents to which you have requested access contain personal data.

Pursuant to Article 4(1)(b) of Regulation (EC) No 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 Community legislation regarding the protection of personal data. The applicable legislation in this field is 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 data².

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³.

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the 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 that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

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 1049/2001, 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

¹ Except for redaction of personal data. Please see reference below.

² Official Journal L 8 of 12.1.2001, p. 1

³ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

4. PARTIAL DISCLOSURE OF TWO DOCUMENTS

Documents Nos. 25 and 26 have been partially disclosed. Both relate to correspondence with the requested associations and companies.

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that access to these two documents can only be provided partially based on the exception of Article 4(3)1 (access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused). Disclosure of these documents would undermine the decision-making process of the Commission, as they would reveal contents which are not yet public and procedural considerations as to how and in which format they will be made accessible to the public, which is currently under consideration.

Please note that the documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

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 document 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.

5. NON-DISCLOSURE OF 12 DOCUMENTS

DG Internal Market, Industry, Entrepreneurship and SMEs has identified 12 documents to which access cannot be granted.

Access to documents Nos. 7, 8, 15 to 22, and 24 cannot be granted, as disclosure is prevented by the exception laid down in Article 4(3)1 (access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused). The same considerations as above apply to the exceptions invoked for the non-disclosure of these documents.

Access to document No. 5 cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(2) first indent (the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property), since the disclosure of this document would disclose business secrets of the third-party author.

Please note that regarding this document originating from a third party, DG Internal Market, Industry, Entrepreneurship and SMEs has consulted the third party according to Article 4(4) of Regulation 1049/2001 and has not obtained the permission to release the document, invoking the above-mentioned exception.

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 document 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 documents in question are covered in their entirety by the above-mentioned exceptions.

6. MEANS OF REDRESS

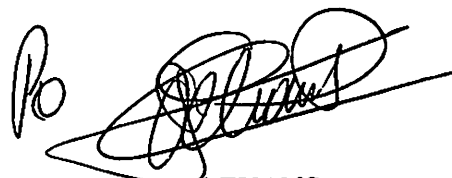
In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review its position.

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,



Lowri EVANS
Director General

Annexes: Document register
List of meetings with the requested associations and companies
Zipped files