



EUROPEAN COMMISSION

Brussels, 9.3.2020
C(2020) 1592 final

Mr Mathias Schindler
Bundestagbüro Julia Reda, MdEP
Unter den Linden 50
11011 Berlin
Germany

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹**

**Subject: Your confirmatory application for access to documents – GESTDEM
2019/6767**

Dear Mr Schindler,

I am writing in reference to your email of 6 January 2020, registered on the same day, by which you lodge a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter ‘Regulation (EC) No 1049/2001’).

Through your initial application of 16 November 2019, you requested access to, I quote, ‘all information held by the European Commission including the Legal Service concerning the notification requirements of the German ancillary copyright law as well as the Spanish ancillary copyright law. This includes any communication between Legal Service and DG GROW preceding and following the request from 2015’.

On 11 December 2019 you were informed that the Commission has split your request between the Legal Service of the European Commission (reference Gestdem 2019/6767), the Directorate-General for Communications Networks, Content and Technology (reference Gestdem 2019/7172) and the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (reference Gestdem 2019/7175).

The scope of this decision will be strictly limited to the part of the request attributed to the Legal Service (reference Gestdem 2019/6767), namely documents within the scope of your request that were created, received or in the possession of the Legal Service.

¹ OJ L 345 of 29.12.2001, p. 94.

² OJ L145 of 31.05.2001, p. 43.

By letter of 6 January 2020, the Legal Service of the European Commission informed you that it was not able to identify any documents as falling within the scope of your request.

In your confirmatory application, you question the absence of any documents, without bringing additional elements to support your claim.

Against this background, the European Commission has carried out a renewed, thorough search for the documents requested. Following this renewed search, I confirm that the Commission does not hold any documents falling within the scope of the request referenced Gestdem 2019/6767.

Indeed, as specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

As specified in the initial reply in this case, the note referenced GROW.B.2(2015)4899298 regarding the legal guidance on the scope of Directive (EU) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services in relation to the rules on ancillary copyright adopted in Germany and Spain, was ultimately not sent to the Legal Service and consequently there was no reply or follow-up.

Given that the European Commission does not hold any further documents corresponding to scope of the request referenced Gestdem 2019/6767, it is not in a position to fulfil your request.

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION

For the Commission
Ilze JUHANSONE
Secretary-General