



EUROPEAN COMMISSION

Brussels, 5.3.2020
C(2020) 1533 final

Mr Mathias Schindler
Bundestagsbüro Julia Reda, MEP
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
2019/7365**

Dear Mr Schindler,

I am writing in reference to your email of 24 January 2020, registered on 28 January 2020, 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 20 December 2019, you requested access to all documents explaining why the document ‘Note for the attention of Mr L. Romero Requena, Director General, Legal Service’ (hereafter ‘Note’), registered under reference Ares(2015)4899298, was not sent out to Mr Luis Romero Requena, the Director General of the Legal Service.

Concretely, you requested, I quote: ‘all information related to this process. This includes any information held by any part of the European Commission and its officers concerning this process and the decision to put it on hold. Among other things, I am very interested to learn when, by whom and how the decision was made to put it on hold and how this decision making process happened. I want all information to be included, including those information that was not deemed important, not registered under eDomec rules etc., for example emails, notes, drafts, comments etc.’

¹ Official Journal L 345 of 29.12.2001, p. 94.

² Official Journal L145 of 31.05.2001, p. 43.

The process you refer to (registered under reference grow.b.2(2015)4899298) is an internal Commission process whereby internal documents get validated before being sent out to their addressees. However, this Note, prepared by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs for the attention of Luis Romero Requena, Director-General for the Legal Service, was never sent out so the process grow.b.2(2015)4899298 was put on hold and never completed.

By letter of 23 January 2020, the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs 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. You take the view that ‘any work surrounding the memo, the decision to not send it and to halt any work regarding the legality of the Spanish legislative work must have left a paper trail within the Commission.’

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 that would correspond to the description given in your application.

The Commission did not find any record in whatever form containing the instruction to halt the internal process with the reference grow.b.2(2015)4899298 and not to send the note to Mr Luis Romero Requena, the Director-General of the Legal Service.

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.

Given that the European Commission does not hold any such documents corresponding to the description given in your application, 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,



For the Commission
Ilze JUHANSONE
Secretary-General