



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

The Director-General

Brussels, 16/09/2022  
DG JUST/CS/ks (2022)6804982

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**Subject: Your application for access to documents – Ref GestDem No 2022/4664**

Dear Sir,

We refer to your request for access to documents, registered on 17/08/2022 under the above mentioned reference number.

You request access to all communications (e-mail, letters, text messages, etc.) between the Commission and Hungary, Poland and Spain on Pegasus.

Your application concerns the following document(s):

- Letter from Commission to Hungary dd. 14.02.2022, Ares(2022)1074841
- Letter from Commission to Poland dd. 14.02.2022, Ares(2022)1074786
- Letter from Commission to Spain dd. 24.05.2022, Ares(2022)3894228
- Letter from Hungary to Commission dd. 11.05.2022, Ares(2022)4084762
- Letter from Poland to Commission dd. 29.03.2022, Ares(2022)2373937

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents<sup>1</sup>, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

According to **Article 4(2), third indent of Regulation (EC) No 1049/2001**, the ‘institutions shall refuse access to a document where disclosure would undermine the protection of the purpose of inspections, investigations and audits’.

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<sup>1</sup> 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. 43–48.*

The documents which you seek to obtain are currently part of an ongoing assessment by the European Commission in relation to the use of Pegasus and equivalent surveillance spyware by some of the Member States. Disclosure at this point in time would affect the climate of mutual trust between the authorities of the concerned Member States and the Commission and would risk to prematurely alter the nature of the assessment.

While the exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an **overriding public interest** in disclosure of the documents, in this instance the public interest in making the content of the documents public does not outweigh the harm that disclosure would cause to the interests protected by the invoked exception.

Therefore, the exception laid down in Article 4(2), third indent of Regulation (EC) No 1049/2001 applies to these documents.

We have considered whether **partial access** could be granted to the documents requested. In our view, disclosure of redacted versions of the documents requested may lead to speculations. It would generate an unwarranted pressure on the European Commission.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled 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  
Secretariat-General  
Transparency, Document Management & Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

(e-signed)  
Ana GALLEGO

*This reply is sent to you via email only and we would appreciate if you could confirm receipt of the present e-mail by replying to [JUST-C3@ec.europa.eu](mailto:JUST-C3@ec.europa.eu).*