



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate D: Security  
Unit D.3 : Police Cooperation

Brussels, 20. 11. 2015  
Home.d.3(2015)5820479

Bits of Freedom  
Rejo Zenger  
Bickersgracht 208  
1013 LH AMSTERDAM  
Netherlands

***By registered letter with acknowledgment of receipt***  
***Advance copy by email : [ask+request-2220-5f3935e8@asktheeu.org](mailto:ask+request-2220-5f3935e8@asktheeu.org)***

Dear Sir,

**Subject: Your application for access to documents – Ref GestDem No 2015/4828**

We refer to your e-mail dated 11/09/2015 in which you make a request for access to documents, registered on 14/09/2015 under the above mentioned reference number.

You request access to *documents which contain information about the infringement proceedings from 2011 against the member states which had not implemented yet the Data Retention Directive (2006/24/EC): Czech Republic (infringement procedure 2011/1143), Germany (infringement procedure 2011/2091), Romania (infringement procedure 2011/2089) and Sweden (infringement procedure 2007/1181).*

Given that your application concerns a large number of documents we were unfortunately not in the position to complete the handling of your application and to process all the documents requested. We will provide you the documents requested by sets, as soon as they are processed.

For the time being, we disclose the documents listed in the annex.

Some of 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 data<sup>1</sup>.

<sup>1</sup> Official Journal L 8 of 12.1.2001, p. 1

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>2</sup>. 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.

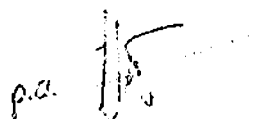
If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'p.a.' followed by a stylized signature.

Victoria Amici  
Head of Unit

Enclosure: List of documents

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<sup>2</sup> 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.

ANNEX- LIST OF DOCUMENTS

Nr	Type of doc	Title	Date	Originator	Nr of pages
1	internal note	Analysis of the DRD case before the German Constitutional Court	date unclear	COM	3
2	internal note	Comparative analysis of the judgment of the German Constitutional Court	date unclear	COM	27
3	internal note	Flash briefing report on the judgment of the German Constitutional Court	02.03.2010	COM	2
4	internal note	Summary of the judgment of the German Constitutional Court	date unclear	COM	9
5	letter	Letter from DG JLS to the Permanent Representative of Germany to the EU	14.04.2010	COM	1
6	letter	Letter from DG HOME to the Permanent Representative of Germany to the EU	27.10.2010	COM	2
7	internal note	Analysis of the judgments of the Constitutional Courts of Germany and Romania	19.01.2011	COM	2
8	meeting report	Report of the meetings with Romania and Germany on the implementation of the Data Retention Directive	21.01.2011	COM	2
9	internal note	Line to take on the state of play of the infringement procedure against Germany	13.04.2011	COM	1
10	internal note	Note from DG HOME to the Legal Service on an Letter of Formal Notice to Germany	10.05.2011	COM	7
11	letter	Letter of Formal Notice to Germany	17.06.2011	COM	5
12	meeting report	Report on the meeting with the German Ministry of the Interior on 23 June 2011	23.06.2011	COM	3
13	internal note	Note from DG HOME to the Legal Service on a Reasoned Opinion to Germany	23.09.2011	COM	1
14	letter	Annex to the note from DG HOME to the Legal Service on a Reasoned Opinion to Germany (in English)	23.09.2011	COM	5

15	letter	Annex to the note from DG HOME to the Legal Service on a Reasoned Opinion to Germany (in German)	23.09.2011	COM	5
16	internal note	Note from DG HOME to the Legal Service on a Reasoned Opinion to Germany	07.10.2011	COM	1
17	letter	Annex to the note from DG HOME to the Legal Service on a Reasoned Opinion to Germany	07.10.2011	COM	6
18	letter	Annex to the note from DG HOME to the Legal Service on a Reasoned Opinion to Germany	07.10.2011	COM	5
19	letter	Reasoned Opinion to Germany	28.10.2011	COM	7
20	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	24.05.2011	COM	1
21	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	01.06.2011	COM	1
22	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	10.06.2011	COM	1
23	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	16.06.2011	COM	1
24	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	14.10.2011	COM	1
25	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	25.10.2011	COM	1
26	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	27.10.2011	COM	1
27	Internal document	Note to Director General of Legal Service on infringement procedure against Germany and Romania - proposal for	26.04.2012	COM	2

		referral to Court			
28	internal document	Note to the Commissioner Maelstrom on application of art.260(3) TFEU in the infringement case against Germany	30.01.2012	COM	4
29	internal document	Note to the file on infringement procedures against Germany and Romania	07.03.2012	COM	2
30	internal document	Note on financial sanctions against Germany	31.01.2012	COM	1
31	internal document	Note to Director General of Legal Service on infringement procedure against Germany and Romania	13.02.2012	COM	9
32	internal document	Note to Director General of Legal Service - comments from EL, IE, NL and SVK	27.03.2013	COM	1
33	internal document	Note to Director General of Legal Service Draft application for the first referral to the Court	09.07.2012	COM	1
34	letter	Reasoned Opinion of the Commission	26.03.2012	COM	9
35	internal document	Note from DG HOME to LS	18.10.2012	COM	2
36	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	06.03.2012	COM	1
37	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	22.09.2011	COM	1
38	letter	Letter from DG HOME to the Permanent Representative of Romania to the EU	27.10.2010	COM	1
39	draft letter	English draft of the letter from DG HOME to the Permanent Representative of Romania to the EU	date unclear	COM	1
40	internal note	Line to take on the state of play of the infringement procedure against Romania	13.04.2011	COM	1
41	internal	Note from DG HOME to the Legal Service on a Letter of Formal Notice to	13.05.2011	COM	3

	note	Romania			
42	letter	Letter of Formal Notice to Romania	17.06.2011	COM	5
43	internal note	Note to the Legal Service on the Reasoned Opinion to Romania	30.09.2011	COM	7
44	letter	Reasoned Opinion to Romania	28.10.2011	COM	6
45	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	23.05.2011	COM	1
46	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	24.05.2011	COM	1
47	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	01.06.2011	COM	1
48	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	10.06.2011	COM	1
49	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	16.06.2011	COM	1
50	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	13.09.2011	COM	1
51	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	14.10.2011	COM	1
52	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	25.10.2011	COM	1
53	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	27.10.2011	COM	1
54	letter	Supplementary reasoned opinion - Infringement	13.02.2012	COM	6

55	internal document	Note from DG HOME to Legal Service	13.05.2011	COM	2
56	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	06.03.2012	COM	1
57	letter	Supplementary reasoned opinion - Infringement	26.03.2012	COM	7
58	internal document	Note from DG HOME to Commissioner Maelstrom	25.05.2012	COM	1
59	internal document	Note from DG HOME to Legal Service	04.09.2012	COM	2
60	internal document	Note from DG HOME to Legal Service	21.01.2013	COM	2