



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate D: Security
Unit D.3 : Police Cooperation

Brussels, 02. 12. 2015
home.d.3(2015)6123377

By registered letter with acknowledgment of receipt

Bits of Freedom
Rejo Zenger
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Advance copy by email : 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 are unfortunately not in the position to complete the handling of your application and to process all the documents requested. We are providing you the documents requested by sets, as soon as they are processed.

On 20 November 2015 we sent you the first set of 60 documents. Please find attached the second set of 54 documents listed in the annex. We will reply to you concerning the remaining third set of documents.

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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². 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



Victoria Amici
Head of Unit

Annex: List of documents

¹ Official Journal L 8 of 12.1.2001, p. 1

² 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	letter	Letter of Formal Notice to Sweden	27.11.2007	COM	5
2	letter	Reasoned Opinion to Sweden	23.09.2008	COM	5
3	internal note	Note to Commissioner Malmström on the ECJ ruling of 4 February 2010 against Sweden with 3 annexes	04.02.2010	COM	10
4	letter	Letter to the Permanent Representative of Sweden to the EU	15.03.2010	COM	2
5	internal note	Note from DG JLS to Legal Service on a Letter of Formal Notice	02.06.2010	COM	1
6	draft letter	Draft Letter of Formal Notice	02.06.2010	COM	3
7	letter	Letter of Formal Notice to Sweden	28.06.2010	COM	4
8	letter	Letter to the Permanent Representative of Sweden to the EU	11.03.2011	COM	1
9	internal note	Note from DG HOME to the Legal Service on the statement of defence	28.09.2011	COM	6
10	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	06.09.2008	COM	1
11	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	16.09.2008	COM	1
12	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	19.09.2008	COM	1
13	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	24.03.2009.	COM	1
14	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	07.04.2009	COM	1
15	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	14.04.2009	COM	1
16	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	12.02.2010	COM	1
17	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	02.06.2010	COM	1
18	internal document	Internal overview document on the state of play of the infringement case	11.06.2010	COM	1

		(NIF fiche)			
19	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	21.06.2010	COM	1
20	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	24.06.2010	COM	1
21	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	11.11.2010	COM	1
22	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	12.11.2010	COM	1
23	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	01.12.2010	COM	1
24	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	31.01.2011	COM	1
25	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	25.03.2011	COM	1
26	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	04.04.2011	COM	1
27	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	06.04.2011	COM	1
28	internal document	Note from DG HOME to Director General of Legal Service on infringement proceedings against Sweden	19.04.2012	COM	1
29	letter	Lump sum recovery notification letter	19.07.2013	COM	2
30	internal document	Note from DG HOME for the attention of Secretary General	19.07.2013	COM	1
31	letter	Acknowledgment of receipt of lump sum recovery letter	29.07.2013	COM	1
32	internal document	closure note DG HOME to LS	17.10.2013	COM	1
33	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	22.10.2013	COM	1
34	internal note	Note analysing the judgment of the Constitutional Court of the Czech Republic of 22 March 2011	10.06.2011	COM	5

35	meeting report	Meeting with the Czech Ministry of Industry and Trade, Prague 15 June 2011	16.06.2011	COM	2
36	letter	Letter to the Czech Ministry of Industry and Trade	24.08.2011	COM	2
37	letter	Letter of Formal Notice to the Czech Republic	25.11.2011	COM	4
38	note	Note on infringement proceedings against the Czech Republic for non-compliance with DRD	17.02.2012	COM	1
39	letter	Request for the registration of a detected presumed infringement	14.10.2011	COM	1
40	letter	Reasoned Opinion – Infringement 2011/1143	17.02.2012	COM	6
41	letter	Reasoned Opinion to the Czech Republic	19.03.2012	COM	6
42	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	24.07.2012	COM	2
43	internal document	Note from DG HOME to DG LS on closure of the case	21.01.2013	COM	2
44	internal document	Internal overview document on the state of play of the infringement case (NIF fiche)	18.01.2013	COM	1
45	e-mail	Transposition of directive 2006/24/EC	19.10.2011	COM	2
46	e-mail	CZ infringement case	29.11.2011	COM	1
47	letter	Letter to the Commission	23.06.2010	DE	4
48	informal document	Key points concerning the storage of traffic data and the granting of internet inventory data requests	17.02.2011	DE	6
49	letter	Reply to the Letter of Formal Notice	15.08.2011	DE	15
50	annex to letter	Annex to the reply to the Letter of Formal Notice (Table – Article 2)	15.08.2011	DE	2
51	annex to letter	Annex to the reply to the Letter of Formal Notice (letter of 25.03.2009)	15.08.2011	DE	3
52	letter	Letter to the Commission	23.12.2011	DE	39
53	letter	Letter from the German Minister of Justice to the Commissioner	14.03.2012	DE	3
54	letter	Letter to the Commission	25.04.2012	DE	2