



EUROPEAN COMMISSION

LEGAL SERVICE
The Director-General

Brussels, 15 June 2022

By email

Mr Arne Semsrott
c/o Open Knowledge
Foundation Deutschland
e.V. Singerstrasse 109,
10179 Berlin
Germany

[a.semsrott\[REDACTED\]@fragdenstaat.de](mailto:a.semsrott[REDACTED]@fragdenstaat.de)

Subject: Request for access to documents

Ref.: Your request received on 31 March 2022, registered on 1 April 2022, under reference GestDem 2022/1937

Dear Mr Semsrott,

I refer to your application for access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹ by which you request: *“the EC Intranet page dealing with contracts that include information on fee scales (as mentioned in the Guide to the litigation work of the Legal Service)”*.

1. IDENTIFICATION OF THE DOCUMENTS

After examination of the Legal Service’s files, the following documents have been identified as matching the terms of your request:

1. Aide mémoire (document reference : Ares(2022)4306891);
2. Barèmes avocats pour le contentieux communautaire.
(document reference : Ares(2015)5118723).

¹ 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, 31.05.2001, page 43).

2. ASSESSMENT AND REFUSAL OF THE COMMISSIONS' DOCUMENTS

After a concrete assessment of the Commission's documents, I regret to inform you that access cannot be granted to the requested documents, in accordance with Article 4(2), first indent, of Regulation (EC) No 1049/2001, which states that *"the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure"*.

The purpose of this exception is to protect the commercial and business interests of natural or legal persons, especially with respect to confidential information related to their economic activities. Namely, the documents consist of confidential information, such as the individual income of lawyers that conclude contracts with the Commission, that even if identified only within certain ranges must not be disclosed without the existence of a specific public interest.

Furthermore, access cannot be granted in accordance with Article 4(1), fourth indent, protection of the financial, monetary, or economic policy of the Community or a Member State. More specifically, the documents' objective is to ensure that the Commission has sufficient space for negotiations regarding the financial conditions, in order for the available public funds to be used in the most efficient way. To the contrary, the disclosure of the documents may undermine the protection of the financial policy of the Community, by revealing the details of the aforementioned negotiations of the Commission with the lawyers.

In the light of the above, the Commission considers that both documents listed above are covered by the said exceptions and cannot be disclosed.

3. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

Pursuant to Article 4(2) of Regulation (EC) No 1049/2001 the exception to the right of access must be waived if there is an overriding public interest in disclosing the requested documents. In order for an overriding public interest in disclosure to exist, this interest, firstly, has to be public and, secondly, overriding, i.e. in this case it must outweigh the interest protected under Article 4(2), first indent. In the present case, there are no elements capable of showing the existence of an overriding public interest in disclosure of the Commission's documents that would outweigh the public interest invoked for the protection of commercial interests of the party concerned.

Please note that the exceptions of Article 4(1) have an absolute character and do not envisage the possibility of demonstrating the existence of an overriding public interest.

4. MEANS OF REDRESS

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretariat-General at the address below:

European Commission

Secretariat-General

Transparency, Document Management & Access to Documents (SG.C.1)

BERL7/076

B-1049 Bruxelles

Or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

[signed electronically]

Daniel CALLEJA CRESPO