



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

The Director-General

Brussels,
FISMA.E.5/AS/

Mr Volodymyr Bogatyr

Dear Mr Bogatyr,

Subject: Your application for access to documents – Ref. GestDem 2022/3046

We refer to your application for access to documents, registered on 25/05/2022 under the above-mentioned reference number.

Relying on Regulation (EC) No 1049/2001 you requested public access to:

“documents which contain the following information:

- (1) List of countries and companies who asked for the securing an exemption from EU sanctions against Russia in the period between 24 February 2022 to date and copies of any correspondence (including letters, emails and their attachments, any information that you hold concerning the requests for such exemptions including, but not limited to, written communications and notes of meetings (handwritten or electronic, drafts, memos, invitations, appointments, cancellations, attendance lists, agendas, background papers), audio or video recordings, verbatim reports, operational conclusions, lines to take, briefings, and presentations or telephone conversations concerning the above.”

The EU sanctions imposed in reaction to last February’s Russian military aggression against Ukraine are set out in amendments of:

- Council Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine;
- Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine;
- Council Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;

- Council Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;
- Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine and
- Council Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine.

The legal acts are published in the Official Journal of the EU¹ and also provided on the specific website on EU restrictive measures www.sanctionsmap.eu.

In the Council discussions about the need for new restrictive measures (sanctions), any Member State may ask that an exemption or a possibility to grant a derogation be included in the legal acts by which the restrictive measures are imposed. These Council discussions concern the EU Common Foreign and Security Policy and are not public. Given that the Council Decisions are adopted by unanimity of the Member States,² disclosure of any documents showing which Member State was successfully proposing anything or failed to obtain what it proposed in these discussions, is likely to undermine the protection of the public interest as regards international relations, for which the third indent of Article 4(1)(a) makes an exception. In view of this, we have construed your request as concerning the application of derogations and exemptions laid down in legal acts imposing restrictive measures.

As regards the application of derogations, none of the legal acts empowers the Commission to grant a derogation. Where the legal acts provide that a derogation may be granted,³ it is up to the competent authority of a Member State to receive requests for a derogation from economic operators and natural persons that have to comply with the EU restrictive measures, and make decisions on them. Accordingly, the Commission does not typically receive the names of companies and citizens that request a derogation.

We regret to inform you that the Commission does not hold any documents that would correspond to the description given in your application.

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 no documents corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

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.

¹ <https://eur-lex.europa.eu/homepage.html>

² See Article 31(1) TEU.

³ See, *e.g.*, Articles 4-6b of Regulation (EU) No 269/2014 and Articles 2(4) and 2(5) of Regulation (EU) No 833/2014 read together with the definition of competent authorities.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-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 Brussels

or by e-mail to: sg-acc-doc@ec.europa.eu

Yours sincerely,

(e-signed)

John BERRIGAN