



**EUROPEAN COMMISSION**

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

**Director-General**

Brussels, **19 JAN. 2017**  
GROW/G2/ZN/lm  
grow.g.2(2017)269897

Ms Christiana Maria Mauro  
c/o Nuclear Transparency Watch

**Advance copy by email:**  
ask+request-3604-  
ab147bc7@asktheeu.org

***By registered letter with acknowledgment of receipt***

**Subject: Your application for access to documents – Ref. GESTDEM  
2016/7131**

Dear Ms Mauro,

We refer to your email dated 08/12/2016 in which you make a request for access to documents on behalf of Nuclear Transparency Watch, registered under the above mentioned reference number.

You request access to the documents connected to the legal assessment of infringement proceeding 2015/4231 initiated by the Commission against Hungary with regard to the public procurement process for the Paks Nuclear Power Plant refurbishment and new reactor construction. In addition you also request the Commission to provide any additional documentation related to the investigation that may be available under Regulation 1049/2001, including the legal analyses conducted by the Commission services, internal notes and documents, correspondence and reports.

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

The documents which you seek to obtain relate to an infringement procedure (reference number: NIF 2015/4231) that can be reopened should the Commission conclude that Hungary has not fulfilled its commitments. You are also aware that there is an ongoing state aid investigation regarding a possible infringement of EU law (reference number: SA.38454 - 2015/C (ex 2015/N)) concerning the Paks II NPP.

Disclosure of the documents requested would for this reason undermine the protection of the purpose of these investigations; indeed, disclosure of the documents at this point in time would affect the climate of mutual trust between the authorities of the Member State and the Commission, which is required to enable them to resolve the case without having to refer it to the Court of Justice. 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, but we found that the remaining parts after expunging the confidential information might be meaningless or illegible.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.


In accordance with Article 7(2) of Regulation 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  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/282  
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 'Lowri Evans', written in a cursive style.

Lowri Evans  
Director-General