

**From:** Helen Darbishire [mailto:helen@access-info.org]

**Sent:** jueves, 9 de marzo de 2017 16:52

**To:** xxxxx@ec.europa.eu

**Cc:** 'SERRA Fernanda (PMO)' <xxxxx @ec.europa.eu>; 'FOUWELS Martine (SG)' <xxxxx @ec.europa.eu>; 'WIECLAWSKI Dariusz (SG)' <xxxxx @ec.europa.eu>; 'Andreas Pavlou' <andreas@access-info.org>; alba@access-info.org; 'Luisa' <luisa@access-info.org>

**Subject:** RE: Ares(2017)1039437 - Access-to-documents request - Commissioners' mission expenses - Poprosal for a fair solution message

Dear Mr Martin Kröger,

Thank you for your message.

First, I ask that you correct your assessment that the 189 requests for access to the mission cost statements of Commissioners for 2016 emanated from one applicant (which you name as Access Info Europe), as this is simply not the case.

Access Info has merely exercised its fundamental rights to freedom of expression and association, rights protected by the EU treaties, something which the Commission should not conflate with us having exercised the right of access to documents for these requests.

Rather, 120 European citizens and residents have of their own free will exercised their right of access to EU documents, and have no doubt done so because they are also interested in obtaining this information. These are legitimate requests from identifiable individuals who have provided or are able to provide the European Commission with their postal addresses. Hence these requests should be registered and processed in accordance with the law, something which has not yet happened.

In this regard, your proposal for a “fair solution” is far from acceptable. First, I am not in a position to agree to the “fair solution” because Access Info is not in this instance and at this point in time acting on behalf of the other requesters. Even if we were, the proposed solution is unacceptable because it would result in the release of only a small portion of the totality of the information requested by 120 people, information that we strongly believe should be in the public domain.

Another unacceptable aspect of the “fair solution” is that the travel expenses for five of the College of Commissioners for even two months of 2016 are being refused up front, without the requests having been processed and without this being justified. This seems to be an ad hoc and even illogical refusal, given that purported basis for limiting access is the time consideration, and yet for the same amount of time the processing the expenses of all the Commissioners for two months, the expenses of just one or two Commissioners could be provided, if that were to be the preference of a requester, should that requester accept a compromise.

Given this situation, please treat this as a formal complaint under the Code of Good Administrative Practice and/or a confirmatory application under Regulation 1049/2001, I am complaining on the following grounds:

- 1) In violation of Regulation 1049/2001, the Commission has failed to register my two requests for access to documents [1] and has not responded to them in the 15-working day timeframe, nor has it notified me of the application of an extension;
- 2) In a serious violation of the individual right of access to documents (Article 15 TFEU, Article 42 Charter of Fundamental Rights of the EU), and in a way that also undermines the rights to freedom of expression and association, the Commission has refused to register the requests of a series of other individual requesters [2] and yet has lumped the requests together, attributed them to one requester (myself acting as Executive Director of Access Info Europe), and has then stated that it would be too burdensome to answer them;
- 3) In spite of not having registered most of the requests, and in breach of the rights of each and every one of the requesters as well as in contravention of the procedures set out in Regulation 1049/2001, the Commission has jumped directly to proposing a “fair solution” of providing two months’ worth of data for just 23 of the Commissioners;
- 4) Without the requisite justification and in an entirely arbitrary manner the Commission has stated that it will not provide more any travel expenses of five of the College of Commissioners simply because some other requesters have already received some information about these requests, even though that was predominately data for 2015, which is not the scope of these requests.

In addition, I would like to raise concerns about the Commission’s record-keeping as revealed by these requests. You state that it would take four (4) working days for “*Gathering preliminary contributions and consultations of the relevant services (PMO, President's Cabinet) regarding the line to be taken*” and then, in addition to the time for redacting the original documents (56 working days), there would be a full five (5) working days for verifying the documents to be released, as much as 4.5 working days for preparing replies (which is slightly confusing given that the “fair solution” is to reply only to Access Info), and then a further six (6) working days for approval of the reply (“replies”) and sending them.

Without, at this point, questioning the amount of time necessary for the mechanical processes involved, it seems that if the time for finding the information and for consulting on it – defining the “line to be taken”, particularly given that responses to previous requests has established the principle that such documents can be found and released – is high enough to raise concerns about the Commission’s information management and internal communications systems. When it is hard to find documents in order to respond to requests, this points to the possibility of room for improvement in records management systems so as to bring them into line with the principles of an efficient and effective administration.

At the same time as rejecting the offer of the “fair solution” and submitting this formal complaint, I once again take this opportunity to urge the European Commission to examine the data that it holds (both in paper documents and in relevant databases) with a view to finding a way of publishing proactively detailed information on the travel expenses of the Commissioners.

For your information, Access Info will be writing to all the requesters informing them of the position taken by the Commission and about their right to submit a formal complaint under the Code of Good Administrative Practice and/or a confirmatory application under Regulation

1049/2001. In due course, should it prove necessary, we will inform them of the possibility of joining us in taking a complaint to the European Ombudsman or the European Court of Justice.

Yours sincerely,

Helen

[1] My two requests may be found here:

[https://www.asktheeu.org/en/request/travel\\_expenses\\_for\\_commissioner\\_85#outgoing-7647](https://www.asktheeu.org/en/request/travel_expenses_for_commissioner_85#outgoing-7647)

[https://www.asktheeu.org/en/request/travel\\_expenses\\_for\\_commissioner\\_86#outgoing-7648](https://www.asktheeu.org/en/request/travel_expenses_for_commissioner_86#outgoing-7648)

[2] Of the 189 requests submitted, only 37 have been registered and issued a GESTDEM number.

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**Helen Darbshire**

Executive Director

**Access Info Europe**

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**From:** EC ARES NOREPLY [mailto:DIGIT-NOREPLYARES@ec.europa.eu]

**Sent:** lundi 27 février 2017 16:05

**To:** Helen Darbshire <helen@access-info.org> <helen@access-info.org>

**Cc:** SERRA Fernanda (PMO) <xxxxx@ec.europa.eu>; FOUWELS Martine (SG) <xxxxx@ec.europa.eu>; WIECLAWSKI Dariusz (SG) <xxxxx@ec.europa.eu>

**Subject:** Ares(2017)1039437 - Access-to-documents request - Commissioners' mission expenses - Poprosal for a fair solution message

[Ares\(2017\)1039437 - Access-to-documents request - Commissioners' mission expenses - Poprosal for a fair solution message](#)

*Sent by KROEGER Martin (SG) <[xxxxx@ec.europa.eu](mailto:xxxxx@ec.europa.eu)>. All responses have to be sent to this email address.*

*Envoyé par KROEGER Martin (SG) <[xxxxx@ec.europa.eu](mailto:xxxxx@ec.europa.eu)> . Toutes les réponses doivent être effectuées à cette adresse électronique.*

Dear Ms Darbshire,

We refer to the campaign launched on 25 January 2017 by *AccessInfoEurope*, inviting citizens to submit, under Regulation 1049/2001, (pre-prepared) initial requests for access to missions' individual cost statements of all Commissioners, which, taken together, would cover for each Commissioner the period from 1 January 2016 until 31 December 2016. By 28 February 2017, the Commission had received 196 individual requests, including 28 duplicates. We also refer to your e-mail of 24 February 2017, in which you reacted to my message of 22 February 2017.

As it has been the first time that the Commission received such a large number of similarly worded requests during such a short period of time (the majority of the requests were submitted during the first three days of the campaign), the necessary internal preliminary consultations were extensive and required significantly more time than in case of most other requests the Commission deals with. I would like to apologise for that delay.

As the Commission explained in its earlier replies to similar requests submitted by *AccessInfoEurope* in 2015 and 2016, the information requested is reflected in the cost statements relating to individual missions. The scope of information requested under the 196 requests taken together, is included in 1573 mission cost statements. As these requests were manifestly triggered by the *AccessInfoEurope* campaign, were submitted, as mentioned above, to the Commission almost simultaneously, and concern the same subject matter (mission statements for missions effected by Commissioners in 2016), we consider that they emanate from the same applicant (i.e. *AccessInfoEurope*).

Again, as explained in the Commission's previous replies, the available search facilities do not provide the possibility to define search criteria that would enable the requested information to be extracted, without developing specific scripts for that purpose or carrying out heavy, successive manipulations in order to filter out the requested information. Consequently, as in the previous cases, in order to satisfy your request, it would be necessary to carry out a concrete and individual examination of 1573 mission cost statements aimed at granting partial access thereto, by redacting the information that does not fall under the scope of the request (but is included in the above-mentioned documents) and/or information which constitutes personal data within the meaning of Regulation 45/2001.

Granting partial access to the individual 1573 mission cost statements would therefore engender a major workload, constituting a disproportionate administrative burden. The below calculation illustrates the estimated workload linked to the preparation of the redacted versions of these documents, based on the human resources necessary for the following steps in the treatment of your initial requests:

1. Gathering preliminary contributions and consultations of the relevant services (PMO, President's Cabinet) regarding the line to be taken: 4 working days,
2. Preparation of the redacted version of 1573 missions cost statements: 56 working days:
  - identification and listing of the individual fiches and representation costs files falling under the temporal scope of the request: 2 minutes per document,
  - extraction and printing: 2 minutes per document,
  - in depth scan of the document's content: 5 minutes per document,
  - redaction of the information falling out of the scope of your request and personal data: 8 minutes per document,
3. Double-checking of the final verification of the documents to be released: 5 working days,
4. Preparation of the reply/ies: 4,5 working days,
5. Formal approval by PMO and dispatch of the replies: 6 working days.

In the light of the above, in order to prepare the reply to your request, one full-time equivalent (FTE) would have to spend 75,5 full working days, without taking into account any other tasks which the staff concerned would need to carry out during that same timeframe.<sup>[1]</sup>

Therefore, I propose that, in line with Article 6(3) of Regulation 1049/2001, and taking into account the time already spent and needed to analyse the requests and agree on a fair solution, and to deal with other requests and core tasks during the same period, the temporal scope of your request (i.e. 12 months, from 1 January 2016 until 31 December 2016) is narrowed down to a shorter timeframe of a two-month period of your choice in 2015 or 2016, representing a more manageable workload.

Could you please inform us, at your earliest convenience and in any case within ten working days, if the above-mentioned proposal is acceptable for you (and if so, which two months you would suggest we take into account).

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<sup>[1]</sup> Please note that some time was already invested in the preliminary assessment of your request and in the preparation of this proposal for a fair solution. These come on top of the 83 working days referred to above.

I note that in reply to other request for access to documents, the Commission released in December 2016 a series of documents regarding five Commissioners (President Juncker, the First Vice President Timmermans and the Commissioners M. Cañete, C. Stylianides, G. Oettinger). As the documents disclosed covered various two-month periods in 2015 and 2015, the present fair solution relates only to the remaining Commissioners.

Yours sincerely,

**Martin KRÖGER**  
Head of Unit



**European Commission**  
Secretariat-General  
Unit B4: Transparency

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