

Authority:

Préposé cantonal à la protection des données et à la transparence

Country / State:

Canton of Geneva / Switzerland

Case title:

Access to E-mails on Wind Farm Planning — Geneva Court and Swiss Federal Tribunal

Official citation:

Swiss Federal Tribunal: *1C_637/2023* (30 September 2024)

Date of decision:

30 September 2024

Relevant law:

Loi sur l'information du public, l'accès aux documents et la protection des données personnelles (LIPAD), art. 25 para. 2

Decision:

The Geneva Cantonal Court held that the disputed e-mails were not personal notes or draft documents but constituted definitive correspondence between entities. The Court ordered disclosure. The Swiss Federal Tribunal confirmed the decision, affirming that the e-mails fell within the scope of the LIPAD.

Key words:

Right to information, access to e-mails, administrative transparency, public documents, principles of RTI

Case Summary:**1. Facts**

The request concerned access to e-mail exchanges between employees of different public entities regarding the development of the cantonal master plan and the planning of wind farms. Access was denied, with the argument that the e-mails were internal notes for personal use or preparatory drafts not covered by the law.

2. Decision

The Geneva Cantonal Court ruled that the e-mails were not personal notes or internal drafts but constituted finalised correspondence exchanged for information and responses, thus qualifying as public documents under art. 25 para. 2 LIPAD. It ordered disclosure. The Swiss Federal Tribunal confirmed this ruling, holding that the e-mails were definitive writings within the meaning of the law and subject to disclosure.

Note (Optional):

ADMINISTRATIVE TRANSPARENCY — clarification of the classification of e-mails under access to documents legislation; distinction between personal notes, preparatory drafts, and definitive correspondence falling under the principle of publicity.

Resources:

Swiss Federal Tribunal: [Decision 1C_637/2023 (30 September 2024)]

https://www.bger.ch/ext/eurospider/live/de/php/aza/http/index.php?highlight_docid=aza://30-09-2024-1C_637-2023&lang=de&zoom=&type=show_document