



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND
TECHNOLOGY

The Director-General

Brussels, 4th May 2022
CNECT.R.4

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Registered letter with acknowledgement of receipt

Subject: Your request for access to documents - GestDem 2022/1467

Dear Mr Fanta,

We refer to your email of 10 March 2022 in which you make request for access to documents pursuant to 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 (hereinafter 'Regulation 1049/2001'), registered on 14 March 2022 under the above-mentioned reference number. Reference is also made to our holding reply, dated 4 April 2022, our reference Ares(2022)2525140, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation 1049/2001.

1. SCOPE OF YOUR APPLICATION

By your application to the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) which was attributed to the Directorate-General for Communications Networks, Content and Technology (DG CONNECT), you request access to the following:

‘(...) Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

- The grant agreement and editorial charter for the European Newsroom, as mentioned in reply to written question E-005649/2021

- All other documents regarding the European Newsroom, including communication (e-mails, text messages, etc.) with project partners and other stakeholders (...)

Given the wide-scope of your request, we contacted you on 25 March 2022 with a view to finding a fair solution based on Article 6(3) of Regulation 1049/2001 (our reference, Ares(2022)2217179). In order to help you narrow down the scope of the requests, we informed you that at that stage approximately more than 300 documents had been identified, indicating also different categories of documents that would fall within the scope of your request. We indicated the steps that the handling of your application would entail, and we concluded that according to our estimates a maximum of 15 documents could possibly be dealt with within 30 working days counting from the date of registration of your application.

By your email dated 28 March 2022, you narrowed down the scope of your request to the category of documents included as attached files in the e-mails.

In line with the principles of sound financial management and good administration to which the Commission is bound to, pursuant to Article 310(5) of the Treaty on the functioning of the European Union, we are obliged to balance your interest in access against the workload resulting from the processing of your application. This is in line with the case law of the EU courts¹.

We have therefore, as announced in our email of 25 March 2021, further restricted the category you selected to the documents identified under point 2 below. It is what could be achieved, taking into account the Commission’s resources and the workload of the concerned staff during the same period, within the given timeframe.

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

The following documents fall within the scope of the request after having been restricted as set out above:

- Annex II - General conditions of the grant agreement (**Document 1**);
- Annex V – Model technical reports (**Document 2**);
- Annex VI – part I - Model financial statement (**Document 3**);
- Annex VI- part II -Actual costs reporting (Multibeneficiary) (**Document 4**);
- Annex VII – Model terms of reference for the certificate on the financial statements (**Document 5**);
- Registry number FENA (**Document 6**);
- Statutes of FENA (BiH) (**Document 7**);
- EN Translation of the FENA decree (**Document 8**);
- Annex IV – 13 Mandate (**Document 9**);

¹ Judgment of the Court of Justice of 2 October 2014 in case C-127/13, Strack v Commission, paragraphs 27-28.

- Annex IV – 14 Mandate (**Document 10**);
- Grant agreement LC-01727348 (**Document 11**);
- Invitation letter - Grant award procedure: Call for Proposals Connect/2021-4104033–Multilingual EU affairs using European media platforms (**Document 12**);
- Declaration of Honour (**Document 13**);
- Grant application - CNECT /2021/4104033 - Multilingual EU affairs using European media platforms (**Document 14**);
- Annex I – Estimated budget (**Document 15**).

3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001 and taking into account the opinion of the third party we have arrived at the conclusion that full access can be granted to seven documents. Partial access can be granted to five documents and access must be refused to the remaining documents. Full and partial disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

A. Full disclosure

Documents 1 - 7 are fully disclosed.

B. Partial disclosure

(i) Protection of privacy and integrity of individuals

Full disclosure of Documents 8 - 12 is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- Names, functions and contact information of other natural persons.

Article 9(1)(b) of the Data Protection Regulation² does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) Regulation 1049/2001, access cannot be granted to the personal data contained in the requested document, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

(ii) Protection of commercial interests

Article 4(2) first indent of Regulation 1049/2001 provides 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.

This provision must be interpreted in light of Article 339 of the Treaty of the Functioning of the European Union (TFEU), which requires staff members of the EU institutions to refrain from disclosing information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Parts of Documents 9 - 12 contain sensitive business information relating to business strategies, the competitive situation on the market, commercial data and other commercial interests of companies, including intellectual property. Moreover, parts of Document 12 contain information on the evaluation of a grant application which is based on the organisations' specific know-how and to technical aspects. There is a real and non-hypothetical risk that disclosure of these parts of the documents could undermine and seriously affect the commercial interests of these companies.

Consequently, the above-mentioned parts of Documents 9 - 12 have been blanked out on the grounds of the exception referred to in Art 4(2) first indent of Regulation 1049/2001.

B. Non-disclosure

We regret to inform you that access cannot be granted to Documents 13–15 as disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

(i) Protection of commercial interests

Documents 13 - 15 are covered by the exception of Article 4(2) first indent of Regulation 1049/2001, which provides 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.

Document 14 is a grant application of a legal person which contains in its entirety information relating to methodologies, know-how, specific pricing and business strategies as to how a specific project will be implemented. There is a general presumption of non-disclosure for submitted grant applications, even after finalisation of the grant award procedure. Disclosure, to the public, of the information contained in grant applications would undermine the protection of the relevant legal person's expertise, know-how, strategy and creativity and thus their commercial strength, as it could be used by competitors in future similar procedures, to the detriment of the legal person concerned. There is therefore a real and non-hypothetical risk that disclosure of these documents would undermine and seriously affect the commercial interests of the legal person.

Documents 13 and 15 contain sensitive commercial data relating to business strategies, the competitive situation on the market, and other commercial interests of a company, including intellectual property. There is a real and non-hypothetical risk that disclosure of

these documents could undermine and seriously affect the commercial interests of these companies.

(ii) Protection of privacy and integrity of individuals

Moreover, parts of Document 13 and 14 contain personal data, in particular the names and functions of other natural persons. Thus, its disclosure is prevented by the exception of Article 4(1)(b) of Regulation 1049/2001 for the reasons set out in Section 3.B.(i) above.

We have considered whether partial access could be granted to Documents 13 - 15. However, partial access is not possible considering that these documents are covered in their entirety by the abovementioned exceptions of Article 4 of Regulation 1049/2001.

In light of the foregoing considerations, access to Documents 13 - 15 must be refused completely.

Please note that the templates of the ‘Declaration of Honour’ and ‘Annex III Estimated budget - Multibeneficiary-en’ can be accessed via the following website:

<https://digital-strategy.ec.europa.eu/en/funding/multilingual-eu-affairs-using-european-media-platforms>

4. OVERRIDING INTEREST IN DISCLOSURE

The exceptions laid down in Article 4(2) and Article 4(3) of Regulation 1049/2001 apply, unless there is an overriding public interest in the disclosure of documents. Such an interest must, firstly, be a public interest and, secondly, outweigh the harm caused by disclosure. We have examined whether there could be an overriding public interest in the disclosure of the aforementioned parts of the documents which are being withheld but we have not been able to identify such an interest.

5. REUSE OF DOCUMENTS

You may reuse public documents which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the disclosed Documents 1 – 5 and 9 - 12 originating from the Commission free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Documents 6 - 8 originate from third parties. Please note that they are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originators, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

6. CONFIRMATORY APPLICATION

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. 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 Bruxelles

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

Yours sincerely,

Electronically signed

Roberto Viola

Enclosures: (12)