



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

The Director-General (acting)

Brussels
HOME.E.2.001/

Ms Chiara Catelli

By e-mail with acknowledgment of receipt:
Ask+request-12669-83229@asktheeu.org

Subject: Your application for access to documents – EASE 2023/1345

Dear Ms Catelli,

I refer to your request for access to European Commission documents registered on 27 February 2023 ⁽¹⁾ under the above-mentioned reference number.

Please allow me to apologise for the delayed transmission of the reply.

You request access to *‘European Commission’s correspondence with 6 Member States (Hungary, Poland, Cyprus, Greece, Spain and Croatia) on the fulfilment of horizontal enabling conditions related to the Charter of fundamental rights of the EU for AMIF, ISF and BMVI funding instruments. The correspondence should include Member States’ self-assessment and European Commission’s assessments of the enabling conditions in the abovementioned programmes in the 6 Member States.*

Any internal European Commission’s documents containing internal guidelines, guidance, or checklists to EU staff on how to assess the fulfilment of horizontal enabling conditions related to the Charter of fundamental rights in AMIF, BMVI and ISF programmes.’

The following documents fall within the scope of your application:

First Question

Observation Letters

1. Letter Commission Observations on the Croatian AMIF programme 2021-2027, 12 April 2022, reference Ares(2022)2990199, (hereinafter ‘Document 1’) which includes the following annex:
 - Annex, Observations on the Croatian AMIF programme 2021-2027, 12 April 2022, reference Ares(2022)2990199, (hereinafter ‘Document 1.1’).

⁽¹⁾ 27 February 2023, is considered as the cut-off date of the request.

2. Letter Commission Observations on the Croatian BMVI programme 2021-2027, 1 April 2022, reference Ares(2022)2439021 (hereinafter 'Document 2') which includes the following annex:
 - Annex, Observations on the Croatian BMVI programme 2021-2027, 1 April 2022, reference Ares(2022)2439021, (hereinafter 'Document 2.1')
3. Letter Commission Observations on the Croatian ISF programme 2021-2027, 1 March 2022, reference Ares(2022)1500825, (hereinafter 'Document 3') which includes the following annex:
 - Annex, Observations on the Croatian ISF programme 2021-2027, 1 March 2022, reference Ares(2022)1500825, (hereinafter 'Document 3.1')
4. Letter Commission Observations on the Cypriot AMIF programme 2021-2027, 10 June 2022, reference Ares(2022)4312445, (hereinafter Document 4) which includes the following annex:
 - Annex, Observations on the Cypriot AMIF programme 2021-2027, 10 June 2022, reference Ares(2022)4312445, (hereinafter 'Document 4.1')
5. Letter Commission Observations on the Cypriot BMVI programme 2021-2027, 17 June 2022, reference Ares(2022)4488829, (hereinafter 'Document 5') which includes the following annex:
 - Annex, Observations on the Cypriot BMVI programme 2021-2027, 17 June 2022, reference Ares(2022)4488829, (hereinafter ;Document 5.1')
6. Letter Commission Observations on the Cypriot ISF programme 2021-2027, 22 June 2022, reference Ares(2022)4589869, (hereinafter 'Document 6') which includes the following annex:
 - Annex, Observations on the Cypriot ISF programme 2021-2027, 22 June 2022, reference Ares(2022)4589869, (hereinafter 'Document 6.1')
7. Letter, Additional Commission Observations on the Cypriot AMIF programme 2021-2027, 11 July 2022, reference Ares(2022)5052040, (hereinafter 'Document 7), which includes the following annex:
 - Annex, Additional Commission Observations on the Cypriot AMIF programme 2021-2027, 11 July 2022, reference Ares(2022)5052040 (hereinafter 'Document 7.1')
8. Letter, Additional Observations on the Cypriot BMVI programme 2021-2027, 11 July 2022, reference Ares(2022)5051807, (hereinafter 'Document 8'), which includes the following annex:
 - Annex, Additional Observations on the Cypriot BMVI programme 2021-2027, 11 July 2022, reference Ares(2022)5051807, (hereinafter 'Document 8.1')
9. Letter, Additional Commission Observations on the Cypriot ISF programme 2021-2027, 11 July 2022, reference Ares(2022)5052151, (hereinafter 'Document 9'), which includes the following annex:
 - Annex, Additional Commission Observations on the Cypriot ISF programme 2021-2027, 11 July 2022, reference Ares(2022)5052151, (hereinafter 'Document 9.1')
10. Letter, Commission Observations on the Greek AMIF programme 2021-2027, 14 March 2022, reference Ares(2022)1869704, (hereinafter 'Document 10'), which includes the following annex:
 - Annex, Commission Observations on the Greek AMIF programme 2021-2027, 14 March 2022, reference Ares(2022)1869704 (hereinafter 'Document 10.1')
11. Letter, Commission Observations on the Greek BMVI programme 2021-2027, 14 March 2022, reference Ares(2022)1869518, (hereinafter 'Document 11'), which includes the following annex:

- Annex, Commission Observations on the Greek BMVI programme 2021-2027, 14 March 2022, reference Ares(2022)1869518, (hereinafter 'Document 11.1')
- 12. Letter, Commission Observations on the Greek ISF programme 2021-2027, 14 March 2022, reference Ares(2022)1869150, (hereinafter 'Document 12'), which includes the following annex:
 - Annex, Commission Observations on the Greek ISF programme 2021-2027, 14 March 2022, reference Ares(2022)1869150, (hereinafter 'Document 12.1')
- 13. Letter, Additional Observations on the Greek AMIF and BMVI programmes 2021-2027, 8 April 2022, reference Ares(2022)2801378, (hereinafter 'Document 13'), which includes the following annex:
 - Annex, Additional Observations on the Greek AMIF and BMVI programmes 2021-2027, 8 April 2022, reference Ares(2022)2801378 (hereinafter 'Document 13.1')
- 14. Letter, Additional Observations on the Greek ISF programme 2021-2027, 8 April 2022, reference Ares(2022)2797133, (hereinafter 'Document 14'), which includes the following annex:
 - Annex, Additional Observations on the Greek ISF programme 2021-2027, 8 April 2022, reference Ares(2022)2797133, (hereinafter 'Document 14.1')
- 15. Letter, Commission Observations on the Hungarian AMIF programme 2021-2027, 21 September 2022, Ares(2022)6528881, (hereinafter 'Document 15'), which includes the following annex:
 - Annex, Observations on the Hungarian AMIF programme 2021-2027, 21 September 2022, Ares(2022)6528881, (hereinafter 'Document 15.1')
- 16. Letter, Commission Observations on the Hungarian BMVI programme 2021-2027, 1 August 2022, reference Ares(2022)5510761, (hereinafter 'Document 16'), which includes the following annex:
 - Annex, Commission Observations on the Hungarian BMVI programme 2021-2027, 1 August 2022, reference Ares(2022)5510761, (hereinafter 'Document 16.1')
- 17. Letter, Commission Observations on the Hungarian ISF programme 2021-2027, 11 August 2022, reference Ares(2022)5700950, (hereinafter 'Document 17'), which includes the following annex:
 - Annex, Commission Observations on the Hungarian ISF programme 2021-2027, 11 August 2022, reference Ares(2022)5700950, (hereinafter 'Document 17.1')
- 18. Letter, Commission Observations on the Polish AMIF programme 2021-2027, 6 October 2022, reference Ares(2022)6907461, (hereinafter 'Document 18'), which includes the following annex:
 - Annex, Commission Observations on the Polish AMIF programme 2021-2027, 6 October 2022, reference Ares(2022)6907461, (hereinafter 'Document 18.1')
- 19. Letter, Commission Observations on the Polish BMVI programme 2021-2027, 28 September 2022, reference Ares(2022)6692028, (hereinafter 'Document 19'), which includes the following annex:
 - Annex, Commission Observations on the Polish BMVI programme 2021-2027, 28 September 2022, reference Ares(2022)6692028, (hereinafter 'Document 19.1')
- 20. Letter, Commission Observations on the Polish ISF programme 2021-2027, 24 August 2022, reference Ares(2022)5897196, (hereinafter 'Document 20'), which includes the following annex:
 - Annex, Commission Observations on the Polish ISF programme 2021-2027, 24 August 2022, reference Ares(2022)5897196 (hereinafter 'Document 20.1')

21. Letter, Commission Observations on the Spanish AMIF programme 2021-2027, 10 March 2022, reference Ares(2022)1790542, (hereinafter ‘Document 21’), which includes the following annex:
 - Annex, Observations on the Spanish AMIF programme 2021-2027, 10 March 2022, reference Ares(2022)1790542, (hereinafter ‘Document 21.1’)
22. Letter, Commission Observations on the Spanish BMVI programme 2021-2027, 1 April 2022, reference Ares(2022)2438012, (hereinafter ‘Document 22’), which includes the following annex:
 - Annex, Commission Observations on the Spanish BMVI programme 2021-2027, 1 April 2022, reference Ares(2022)2438012, (hereinafter ‘Document 22.1’)
23. Letter, Commission Observations on the Spanish ISF programme 2021-2027, 13 April 2022, reference Ares(2022)3018206, (hereinafter ‘Document 23’), which includes the following annex:
 - Annex, Commission Observations on the Spanish ISF programme 2021-2027, 13 April 2022, reference Ares(2022)3018206, (hereinafter ‘Document 23.1’)

Commission Implementing Decisions

24. Commission Implementing Decision approving the programme of Croatia for support from the Asylum, Migration and Integration Fund for the period from 2021 to 2027, 16 November 2022, reference C(2022)8410 final, (hereinafter ‘Document 24’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Croatia for the Asylum, Migration and Integration Fund for the period from 2021 to 2027, 16 November 2022, reference C(2022)8410 final, (hereinafter ‘Document 24.1’)
25. Commission Implementing Decision approving the programme of Croatia for support from the Instrument for Financial support for Border Management and Visa Policy for the period from 2021 to 2027, 8 November 2022, reference C(2022)8105 final, (hereinafter ‘Document 25’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Croatia for support from the Instrument for Financial support for Border Management and Visa Policy for the period from 2021 to 2027, 8 November 2022, reference C(2022)8105 final, (hereinafter ‘Document 25.1’)
26. Commission Implementing Decision approving the programme of Croatia for support from the Internal Security Fund for the period from 2021 to 2027, 8 November 2022, reference C(2022)8117 final, (hereinafter ‘Document 26’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Croatia for support from the Internal Security Fund for the period from 2021 to 2027, 8 November 2022, reference C(2022)8117 final (hereinafter ‘Document 26.1’)
27. Commission Implementing Decision approving the programme of Cyprus for support from the Asylum, Migration and Integration Fund for the period from 2021 to 2027, 19 January 2023, reference C(2023)330 final, (hereinafter ‘Document 27’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Cyprus for support from the Asylum, Migration and Integration Fund for the period from 2021 to 2027, 19 January 2023, reference C(2023)330 final, (hereinafter ‘Document 27.1’)

28. Commission Implementing Decision approving the programme of Cyprus for support from the Instrument for Financial support for Border Management and Visa Policy for the period from 2021 to 2027, 20 January 2023, reference C(2023)355 final, (hereinafter ‘Document 28’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Cyprus for support from the Instrument for Financial support for Border Management and Visa Policy for the period from 2021 to 2027, 20 January 2023, reference C(2023)355 final, (hereinafter ‘Document 28.1’)
29. Commission Implementing Decision approving the programme of Cyprus for support from the Internal Security Fund for the period from 2021 to 2027, 11 January 2023, reference C(2023)293 final, (hereinafter ‘Document 29’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Cyprus for support from the Internal Security Fund for the period from 2021 to 2027, 11 January 2023, reference C(2023)293 final, (hereinafter ‘Document 29.1’)
30. Commission Implementing Decision approving the programme of Greece for support from the Asylum, Migration, and Integration Fund for the period from 2021 to 2027, 10 November 2022, reference C(2022)8160 final, (hereinafter ‘Document 30’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Greece for support from the Asylum, Migration and Integration Fund for the period from 2021 to 2027, 10 November 2022, reference C(2022)8160 final, (hereinafter ‘Document 30.1’)
31. Commission Implementing Decision approving the programme of Greece for support from the Instrument for Financial support for Border Management and Visa Policy for the period from 2021 to 2027, 15 November 2022, reference C(2022)8306 final, (hereinafter ‘Document 31’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Greece for support from the Instrument for Financial support for Border Management and Visa Policy for the period from 2021 to 2027, 15 November 2022, reference C(2022)8306 final, (hereinafter ‘Document 31.1’)
32. Commission Implementing Decision approving the programme of Greece for support from the Internal Security Fund for the period from 2021 to 2027, 30 November 2022, reference C(2022)8922 final, (hereinafter ‘Document 32’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Greece for support from the Internal Security Fund for the period from 2021 to 2027, 30 November 2022, reference C(2022)8922 final, (hereinafter ‘Document 32.1’)
33. Commission Implementing Decision approving the programme of Hungary for support from the Asylum, Migration, and Integration Fund for the period from 2021 to 2027, 22 December 2022, reference C(2022)10022 final, (hereinafter ‘Document 33’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Hungary for support from the Asylum, Migration, and Integration Fund for the period from 2021 to 2027, 22 December 2022, reference C(2022)10022 final, (hereinafter ‘Document 33.1’)
34. Commission Implementing Decision approving the programme of Hungary for support from the Instrument for Financial support from the Border Management and Visa Policy for the period from 2021 to 2027, 22 December 2022, reference

C(2022)10020 final, (hereinafter ‘Document 34’), which includes the following annex:

- Annexes to the Commission Implementing Decision approving the programme of Hungary for support from the Instrument for Financial support from the Border Management and Visa Policy for the period from 2021 to 2027, 22 December 2022, reference C(2022)10020 final, (hereinafter ‘Document 34.1’)
35. Commission Implementing Decision approving the programme of Hungary for support from the Internal Security Fund for the period from 2021 to 2027, 22 December 2022, reference C(2022)10019 final, (hereinafter ‘Document 35’), which includes the following annex:
- Annexes to the Commission Implementing Decision approving the programme of Hungary for support from the Internal Security Fund for the period from 2021 to 2027, 22 December 2022, reference C(2022)10019 final, (hereinafter ‘Document 35.1’)
36. Commission Implementing Decision approving the programme of Poland for support from the Asylum, Migration, and Integration Fund for the period from 2021 to 2027, 12 December 2022, reference C(2022)9060 final, (hereinafter ‘Document 36’), which includes the following annex:
- Annexes to the Commission Implementing Decision approving the programme of Poland for support from the Asylum, Migration, and Integration Fund for the period from 2021 to 2027, 12 December 2022, reference C(2022)9060 final, (hereinafter ‘Document 36.1’)
37. Commission Implementing Decision approving the programme of Poland for support from the Instrument for Financial support from the Border Management and Visa Policy for the period from 2021 to 2027, 12 December 2022, reference C(2022)9035 final, (hereinafter ‘Document 37’), which includes the following annex:
- Annexes to the Commission Implementing Decision approving the programme of Poland for support from the Instrument for Financial support from the Border Management and Visa Policy for the period from 2021 to 2027, 12 December 2022, reference C(2022)9035 final, (hereinafter ‘Document 37.1’)
38. Commission Implementing Decision approving the programme of Poland for support from the Internal Security Fund for the period from 2021 to 2027, 8 December 2022, reference C(2022)8906 final, (hereinafter ‘Document 38’), which includes the following annex:
- Annexes to the Commission Implementing Decision approving the programme of Poland for support from the Internal Security Fund for the period from 2021 to 2027, 8 December 2022, reference C(2022)8906 final, (hereinafter ‘Document 38.1’)
39. Commission Implementing Decision approving the programme of Spain for support from the Asylum, Migration, and Integration Fund for the period from 2021 to 2027, 17 November 2022, reference C(2022)8445 final, (hereinafter ‘Document 39’), which includes the following annex:
- Annexes to the Commission Implementing Decision approving the programme of Spain for support from the Asylum, Migration and Integration Fund for the period from 2021 to 2027, 17 November 2022, reference C(2022)8445 final, (hereinafter ‘Document 39.1’)
40. Commission Implementing Decision approving the programme of Spain for support from the Instrument for Financial support from the Border Management and Visa Policy for the period from 2021 to 2027, 24 November 2022, reference C(2022)8713 final, (hereinafter ‘Document 40’), which includes the following annex:
- Annexes to the Commission Implementing Decision approving the programme of Spain for support from the Instrument for Financial support from the Border

Management and Visa Policy for the period from 2021 to 2027, 24 November 2022, reference C(2022)8713 final, (hereinafter ‘Document 40.1’)

41. Commission Implementing Decision approving the programme of Spain for support from the Internal Security Fund for the period from 2021 to 2027, 5 December 2022, reference C(2022)9095 final, (hereinafter ‘Document 41’), which includes the following annex:
 - Annexes to the Commission Implementing Decision approving the programme of Spain for support from the Internal Security Fund for the period from 2021 to 2027, 5 December 2022, reference C(2022)9095 final, (hereinafter ‘Document 41.1’)

Admissible Home Affairs Funds Programmes

42. Cypriot 2021- 2027 Asylum Migration and Integration Fund Programme, version 1.1, dated 15 March 2022, reference Ares(2022)1894178 (hereinafter ‘Document 42’)
43. Cypriot 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.1, dated 15 March 2022, reference Ares(2022)1893998, (hereinafter ‘Document 43’)
44. Cypriot 2021-2027 Internal Security Fund Programme, version 1.1, dated 15 March 2022, reference Ares(2022)1894048, (hereinafter ‘Document 44’)
45. Croatian 2021-2027 Internal Security Fund Programme, version 1.1, dated 2 December 2021, reference Ares(2021)7436970, (hereinafter ‘Document 45’)
46. Croatian 2021-2027 Asylum Migration and Integration Fund Programme, version 1.2, dated 21 January 2022, reference Ares(2022)492484, (hereinafter ‘Document 46’)
47. Croatian 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.2, dated 21 January 2022, reference Ares(2022)477261, (hereinafter ‘Document 47’)
48. Greek 2021-2027 Asylum Migration and Integration Fund Programme, version 1.1, dated 15 December 2021, reference Ares(2021)7749441, (hereinafter ‘Document 48’)
49. Greek 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.1, dated 16 December 2021, reference Ares(2021)7789541, (hereinafter ‘Document 49’)
50. Greek 2021-2027 Internal Security Fund Programme, version 1.1, dated 15 December 2021, reference Ares(2021)7766776, (hereinafter ‘Document 50’)
51. Hungarian 2021-2027 Asylum Migration and Integration Fund Programme, version 1.1, dated 16 May 2022, reference Ares(2022)3694856, (hereinafter ‘Document 51’)
52. Hungarian 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.1, dated 19 April 2022, reference Ares(2022)3071432, (hereinafter ‘Document 52’)
53. Hungarian 2021-2027 Internal Security Fund Programme, version 1.1, dated 11 May 2022, reference Ares(2022)3595210, (hereinafter ‘Document 53’)
54. Polish 2021-2027 Asylum Migration and Integration Fund Programme, version 1.1, dated 9 June 2022, reference Ares(2022)4271094, (hereinafter ‘Document 54’)
55. Polish 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.0, dated 13 May 2022, reference Ares(2022)3654240, (hereinafter ‘Document 55’)
56. Polish 2021-2027 Internal Security Fund Programme, version 1.0, dated 13 March 2022, reference Ares(2022)3654258, (hereinafter ‘Document 56’)
57. Spanish 2021-2027 Asylum Migration and Integration Fund Programme, version 1.1, dated 7 December 2021, reference Ares(2021)7546776, (hereinafter ‘Document 57’)

58. Spanish 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.1, dated 28 December 2021, reference Ares(2021)7992637, (hereinafter 'Document 58')
59. Spanish 2021-2027 Internal Security Fund Programme, version 1.2, dated 26 January 2022, reference Ares(2022)633021, (hereinafter 'Document 59')

Approved Home Affairs Funds Programmes

60. Cypriot 2021- 2027 Asylum Migration and Integration Fund Programme, version 1.2, dated 24 November 2022, reference Ares(2022)8121096 (hereinafter 'Document 60')
61. Cypriot 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.2, dated 1 December 2022, reference Ares(2022)8316764, (hereinafter 'Document 61')
62. Cypriot 2021-2027 Internal Security Fund Programme, version 1.2, dated 1 December 2022, reference Ares(2022)8320253, (hereinafter 'Document 62')
63. Croatian 2021-2027 Internal Security Fund Programme, version 1.3, dated 18 October 2022, reference Ares(2022)7194552, (hereinafter 'Document 63')
64. Croatian 2021-2027 Asylum Migration and Integration Fund Programme, version 1.4, dated 20 October 2022, reference Ares(2022)7272543, (hereinafter 'Document 64')
65. Croatian 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.4, dated 18 October 2022, reference Ares(2022)7202153, (hereinafter 'Document 65')
66. Greek 2021-2027 Asylum Migration and Integration Fund Programme, version 1.3, dated 21 October 2022, reference Ares(2022)7313837, (hereinafter 'Document 66')
67. Greek 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.3, dated 21 October 2022, reference Ares(2022)7313667, (hereinafter 'Document 67')
68. Greek 2021-2027 Internal Security Fund Programme, version 1.3, dated 11 November 2022, reference Ares(2022)7808387, (hereinafter 'Document 68')
69. Hungarian 2021-2027 Asylum Migration and Integration Fund Programme, version 1.2, dated 8 December 2022, reference Ares(2022)8538302, (hereinafter 'Document 69')
70. Hungarian 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.2, dated 7 December 2022, reference Ares(2022)8503671, (hereinafter 'Document 70')
71. Hungarian 2021-2027 Internal Security Fund Programme, version 1.2, dated 7 December 2022, reference Ares(2022)8503677, (hereinafter 'Document 71')
72. Polish 2021-2027 Asylum Migration and Integration Fund Programme, version 1.2, dated 14 November 2022, reference Ares(2022)7850990, (hereinafter 'Document 72')
73. Polish 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.1, dated 16 November 2022, reference Ares(2022)7919698, (hereinafter 'Document 73')
74. Polish 2021-2027 Internal Security Fund Programme, version 1.1, dated 7 November 2022, reference Ares(2022)7667862, (hereinafter 'Document 74')
75. Spanish 2021-2027 Asylum Migration and Integration Fund Programme, version 1.2, dated 14 October 2022, reference Ares(2022)7118446, (hereinafter 'Document 75')
76. Spanish 2021-2027 Border Management and Visa Policy Instrument Programme, version 1.4, dated 15 November 2022, reference Ares(2022)7886148, (hereinafter 'Document 76')
77. Spanish 2021-2027 Internal Security Fund Programme, version 1.6, dated 25 November 2022, reference Ares(2022)8175626, (hereinafter 'Document 77')

Correspondence on pending assessment of the Charter of fundamental rights of the EU

Second Question

78. Note on the Horizontal Enabling Condition on the EU Charter for Fundamental Rights, dated 17 February 2022, reference number Ares(2022)1180131, (hereinafter ‘Document 78’) which includes the following annexes:
- Flow Chart, dated 17 February 2022, reference Ares(2022)1180131, (hereinafter ‘Document 78.1’)
 - Procedure Note Charter HEC, dated 17 February 2022, reference Ares(2022)1180131, (hereinafter ‘Document 78.2’)
 - Charter HEC Checklist, dated 17 February 2022, reference Ares(2022)1180131, (hereinafter ‘Document 78.3’)
79. Transmission Letter on Horizontal Enabling condition on the effective application and implementation of the Charter of Fundamental Rights, dated 17 February 2022, reference Ares(2022)1199345 (hereinafter ‘Document 79’) which includes the following annex:
- Letter on Horizontal Enabling condition on the effective application and implementation of the Charter of Fundamental Rights signed, dated 17 February 2022, reference Ares(2022)1199345 (hereinafter ‘Document 79.1’)⁽²⁾

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001⁽³⁾ regarding public access to documents, I have come to the conclusion that

- documents 7.1, 8.1, 9.1, 13.1, 14.1, 24–41.1, 60–77 and 78.1 can be fully shared with the public,
- documents 1–7, 8, 9, 10–13, 14, 15–23.1, 78, 78.2, 78.3, 79 and 79.1 may be partially disclosed,
- no public disclosure is possible regarding documents 42–59.

My detailed assessment is set out below.

I. Full disclosure

Please find attached documents 7.1, 8.1, 9.1, 13.1, 14.1, 24–41.1 and 78.1.

With regards to the identified documents 60–77 please note that in line with Article 49(1) of the Common Provision Regulation⁽⁴⁾, “[t]he managing authority shall ensure that, within 6 months of the decision approving the programme, there is a website where information on programmes under its responsibility is available, covering the programme’s objectives, activities, available funding opportunities and achievements”.

⁽²⁾ Please note that under no 79 and 79.1, we are identifying only one of the identical letters which were sent to all the Member States and associated countries benefitting from the EU funds.

⁽³⁾ 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, OJ L 145, 31.5.2001, p. 43.

⁽⁴⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231, 30.6.2021, p. 159.

In line with this obligation, the Managing Authorities of Hungary, Poland, Cyprus, Greece, Spain and Croatia have already made public the approved programmes. In Section 4, of the programmes you can find the relevant information on the applicable Horizontal Enabling Conditions. More concretely, please refer to the following websites:

- **Cyprus:**

1. *Document 60: AMIF programme:* https://www.moi.gov.cy/MOI/eufundsunit.nsf/2127nationalpamif_en/2127nationalpamif_en?opendocument,
2. *Document 61 : BMVI programme:* https://www.moi.gov.cy/MOI/eufundsunit.nsf/2127nationalpmsf_en/2127nationalpmsf_en?opendocument
3. *Document 62 : ISF programme:* https://www.moi.gov.cy/MOI/eufundsunit.nsf/2127nationalpisf_en/2127nationalpisf_en?opendocument

- **Croatia:**

1. *Document 63: AMIF programme:* <https://eufondovi.mup.hr/financijski-instrumenti-eu-82/financijski-okvir-2021-2027/489> (Fond za azil, migracije i integraciju)
2. *Document 64: BMVI programme:* <https://eufondovi.mup.hr/financijski-instrumenti-eu-82/financijski-okvir-2021-2027/489> (Fond za integrirano upravljanje granicama - Instrument za financijsku potporu u području upravljanja granicama i vizne politike)
3. *Document 65 : ISF programme:* <https://eufondovi.mup.hr/financijski-instrumenti-eu-82/financijski-okvir-2021-2027/489> (Fond za unutarnju sigurnost)

- **Greece:**

1. *Document 66 : AMIF programme:* <https://tamey.gov.gr/amif2021-2027/>,
2. *Document 67 :BMVI programme:* <https://tamey.gov.gr/bmvi2021-2027/>,
3. *Document 68 : ISF programme:* <https://tamey.gov.gr/isf2021-2027/>

- **Hungary:**

1. *Document 69 : AMIF programme:* <https://www.palyazat.gov.hu/programok/belugyi-alapok> (Elfogadott MMIA Plusz)
2. *Document 70: BMVI programme:* <https://www.palyazat.gov.hu/programok/belugyi-alapok> (Elfogadott HAVE Plusz)
3. *Document 71: ISF programme:* <https://www.palyazat.gov.hu/programok/belugyi-alapok> (Elfogadott BBA Plusz)

- **Poland:**

1. *Document 72: AMIF programme:* <https://www.gov.pl/web/european-funds/asylum-migration-and-integration-fund-2021-2027>
2. *Document 73 : BMVI programme:* <https://www.gov.pl/web/european-funds/border-management-and-visa-policy-2021-2027>
3. *Document 74 : ISF programme:* <https://www.gov.pl/web/european-funds/internal-security-fund-2021-2027>

- **Spain:**

1. *Document 75: AMIF programme:* <https://www.inclusion.gob.es/web/migraciones/programa-nacional>
2. *Document 76: BMVI programme:* <https://fondoseuropeosparaseguridad.interior.gob.es/es/fondos/fondo-para-la-gestion-integrada-de-las-fronteras/documentacion/>
3. *Document 77: ISF programme:* <https://fondoseuropeosparaseguridad.interior.gob.es/es/fondos/fondo-de-seguridad-interior/documentacion/>

In the cases of Cyprus (AMIF and BMVI), Hungary and Poland (for the three funds), please note that at the time of the submission of your request, the Horizontal Enabling Condition on

the effective application and implementation of the Charter of Fundamental Rights were not considered fulfilled from the European Commission.

II. Partial disclosure

As regards documents 1–7, 8, 9, 10–13, 14, 15–23.1, 78, 78.2, 78.3, 79 and 79.1, some of their parts have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001 (protection of the privacy and the integrity of individuals) and Article 4(2) of this Regulation (protection of legal advice). In addition, many parts of those documents have been redacted as falling outside of the scope of the submitted request.

➤ Protection of personal data

With regards to the identified documents 1–7, 8, 9, 10–13, 14, 15–23.1, 78, 79 and 79.1, their complete disclosure is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- The names/ initials and contact information of Commission staff members not pertaining to the senior management;
- The names/ initials and contact details of other natural persons;
- Handwritten signatures/abbreviated signatures of the natural persons.

In accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001, “[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data”.

Article 9(1)(b) of the Data Protection Regulation ⁽⁵⁾ 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 their 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) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, 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.

➤ Protection of legal advice

Parts of documents 78.2 and 78.3 contain preliminary opinions of the Commission’s Legal Service, which are sensitive as they remain relevant for the continuous monitoring of the situation in Member States. These documents relate to hypothesis likely to occur under the

⁽⁵⁾ 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

2021-2027 programming period and on which the College may still be called upon to take a decision.

In accordance with the second indent of Article 4(2), “[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] legal advice [...]”.

I consider that disclosure of these preliminary opinions of the Legal Service would undermine the institution’s interest in seeking and receiving frank, objective and comprehensive legal advice. Disclosure would make known the internal opinions and guidance of the Legal Service on this very complex and highly sensitive matter, at a time when the Commission is still monitoring the fulfilment of the enabling conditions in relation to several Member States and it is unavoidable that future Commission decisions will be taken on that matter.

The exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. I observe that you have not provided any arguments in your initial application to support any pressing need for the public to obtain access to the documents. I have also examined whether there could be an overriding public interest in disclosure, but I have not been able to identify such an overriding interest.

In light to the above, I consider that the exception of Article 4(2) of the Regulation (EC) No 1049/2001 applies to parts of documents 78.2 and 78.3.

As a result, please find enclosed documents 1–7, 8, 9, 10–13, 14, 15–23.1, 78, 78.2, 78.3, 79 and 79.1 in a redacted format, from which the protected or out of scope information has been removed.

Disclaimers:

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](#) ⁽⁶⁾. You may reuse the documents disclosed 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.

Please note that documents 78, 78.1, 78.2 and 78.3 were drawn up for internal use under the responsibility of the relevant Commission services. They do not reflect the position of the Commission and cannot be quoted as such.

III. Refusal

Documents 42–59 contain the preliminary versions of the programmes submitted by Member States to the Commission in accordance with Article 21(2) of the Common Provisions Regulation, which were then subject to the procedure set out in paragraphs 2 and 3 of Article 23 of the Common Provisions Regulation.

In accordance with the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001, “[a]ccess to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously

⁽⁶⁾ Commission Decision of 12 December 2011 on the reuse of Commission documents, L 330, 14.12.2011, p. 39.

undermine the institution's decision-making process, unless there is an overriding public interest in disclosure”.

I consider that disclosure of the preliminary versions of these national programmes would undermine the protection of the decision-making process of the Commission, as it would reveal information submitted by the respective Member States to which the European Commission, provided observations and ended up to the final adoption of the Home Affairs Funds programmes of the Member States. The Commission services must be free to explore all possible options in preparation of their observations, free from external pressure. Therefore, the exception laid down in the second paragraph of Article 4(3) of Regulation (EC) No 1049/2001 applies to these documents.

I have considered whether partial access could be granted but for the abovementioned reasons, the documents cannot be partially disclosed.

The exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. I have examined whether there could be an overriding public interest in disclosure but have not been able to identify such an interest.

IV. Means of redress

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal ⁽⁷⁾ account (available only for initial requests submitted via the portal account),

or by mail:

European Commission
Secretariat-General

Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels

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

Finally, I note that your request has been submitted outside the EASE portal. Therefore, I would appreciate, if you could acknowledge receipt of the present letter by sending an email to HOME-ACCESS-DOCUMENTS@ec.europa.eu.

Yours faithfully,

Beate GMINDER

⁽⁷⁾ <https://www.ec.europa.eu/transparency/documents-request>