



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

The Director-General

Brussels,  
MOVE/A5/ms (2017) 3610546

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

Mr Mathias Huter  
Schuhmeierplatz 9/25  
1160 Vienna  
Austria

***Advance copy by email :***  
[ask+request-4318-0c1066ca@asktheeu.org](mailto:ask+request-4318-0c1066ca@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No 2017/3062 and 3228 (joint cases)**

Dear Mr Huter,

We refer to your letter dated 22 May 2017 in which you make a request for access to documents, registered on 23 May 2017 under the above mentioned reference number and to our holding replies dated 09 and 16 June 2017.

You request access to any documents (especially minutes or summaries) related to meetings which include or reflect the positions of the Commission, and/or Member States represented at the meeting with the U.S. regarding the carriage and use of large consumer electronics on flights and related documents that contain data, assessments or other information on the need for new regulation or the potential positive/negative impact new regulation or a ban of certain consumer electronics might have.

On the basis of your request we have identified the following documents::

- The letter co-signed by Commissioners Avramopoulos and Bulc to U.S. Secretaries John F. Kelly and Elaine Chao<sup>1</sup>;
- Mail by Commission services to the members of the Aviation Security Committee<sup>2</sup> regarding the U.S. ban of large electronic items from cabin baggage and invitation to a meeting on 11 May 2017;
- Agenda of the extraordinary meeting of the members of the Aviation Security Committee on 11 May 2017;
- The minutes of the extraordinary meeting of the members of the Aviation Security Committee;
- Joint discussions and cooperation on aviation security matters<sup>3</sup>;

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<sup>1</sup> 9 May 2017.

<sup>2</sup> 5 May 2017.

<sup>3</sup> Ares(2017) 2398812, 11 May 2017.

- Mail by Commission services to the members of the AVSEC Committee sent to the members of the Aviation Security Committee<sup>4</sup> regarding the U.S. ban of large electronic items - PEDs (Portable Electronic Devices) - from cabin baggage and the invitation to meetings on 17 and 18 May 2017;
- Agenda of the extraordinary meeting of the members of the Aviation Security Committee on 17 and 18 May 2017;
- Internal reports of the preparatory meetings with Member States on 17 May 2017 in the framework of the Aviation Security Committee<sup>5</sup> and the Terrorism Working Party (TWP)<sup>6</sup>
- Annotated agenda of the EU-U.S. dialogue on Aviation Security<sup>7</sup> of 17 May 2017;
- Invitation to Member States<sup>8</sup> to the EU-U.S. dialogue on aviation security on 16 May 2017
- Briefing notes for Commissioner Bulc;
- Briefing notes for Commissioner Avramopoulos;
- Internal conclusions of the meeting in electronic format<sup>9</sup>;
- Press release of 17 May 2017 (*already available to the applicant as referred to in his request*<sup>10</sup>);
- The minutes of the extraordinary meeting of the members of the Aviation Security Committee 17 and 18 May 2017<sup>11</sup>.

Having examined the documents requested under the provisions of 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<sup>12</sup>, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation. The only information dedicated for the public domain is the press statement to which you refer to in your application.

*"Article 4(1)(a) of Regulation (EC) No 1049/2001 states as follows:*

*1. The institutions shall refuse access to a document where disclosure would undermine the protection of:*

*(a) the public interest as regards:*

*— public security, (...)*

*— international relations,".*

The documents which you seek to obtain contain information that is considered sensitive as it concerns details of aviation security risk and respective mitigation measures. Access to such documents would undermine the protection of public security as well as international relations, as they were part of discussions between the Commission and the U.S. administration.

While the vast majority of aviation security legislation is public knowledge through publication in the Official Journal a limited part has access restrictions in order not to jeopardise public security. The negotiations between the EU and the U.S. concerned these details.

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<sup>4</sup> 15 May 2017.

<sup>5</sup> 18 May 2017.

<sup>6</sup> Report – Terrorism Working Party (TWP) meeting – 17 May 2017, Ares(2017)2711762, 30 May 2017.

<sup>7</sup> 16 May 2017 final.

<sup>8</sup> Invitation to Ambassadors of Member States to EU-US meeting on Aviation Security, Ares(2017) 2488353, 16 May 2017.

<sup>9</sup> HOME 18 May 2017, MOVE 17 May 2017.

<sup>10</sup> [http://europa.eu/rapid/press-release\\_STATEMENT-17-1371\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-17-1371_en.htm).

<sup>11</sup> 18 May 2017.

<sup>12</sup> OJ L145 of 31 May 2001, p. 43.

Moreover, the disclosure of the documents requested would not only undermine the atmosphere of mutual trust and risk to jeopardise the long-standing and fruitful cooperation between the EU and the U.S. on security and in particular aviation security, it might be judged an infringement to the EU-U.S. agreement on the protection of classified information. In the long run, it would also have detrimental effects on the Commission's position in international negotiations and could limit future similar negotiations which are aimed at increasing aviation security globally.

We have considered whether partial access could be granted to the documents requested. However, as the main topics identified in the documents reflect on the identification and assessment of threat and risk to international aviation (including available information on terrorists' intent and capabilities to target aviation) and the evaluation of respective aviation security mitigating measures (including possible vulnerabilities), any remaining parts are meaningless or even illegible after expunging.

We would however draw your attention to the work on aviation security undertaken by the Commission and experts from Member States in the framework of the *Committee on the application of legislation and common rules on the security of civil aviation*<sup>13</sup> and by the Commission and experts from Member States and stakeholder associations and organisations in the *Stakeholder Advisory group*<sup>14</sup>, which can be accessed via the respective Commission registers.

The Commission wishes to refer the applicant's attention to the fact the U.S. administration has issued a new set of aviation security measures on 28 June 2017 addressed to all air carriers operating flights to U.S. airports.

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 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, consisting of several vertical strokes followed by a circular flourish and a long horizontal line extending to the right.

Henrik HOLOLEI

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<sup>13</sup> Created by Article 19 of Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97/72 of 9.4.2017), listed in the Commission's Comitology Register:

<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=List.list>

<sup>14</sup> Created by Article 17 of Regulation (EC) 300/2008, listed in the Commission's register for Expert Groups:

<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2883>