



EUROPEAN COMMISSION
RESEARCH EXECUTIVE AGENCY

Legal Affairs, Internal Control and Reporting
Head of Sector

Brussels,
REA C0.1/ (2017)

Mr Lucas Dahlström
Krokegatan 9
Apt 308 (c/o Andersson)
413 18
Gothenburg
Sweden

*Sent by registered mail with acknowledgment of receipt and by registered e-mail to:
ask+~~x~~@xx*

Subject: Your application for access to documents – Ref. Ares (2017)6342267

Dear Mr. Dahlström,

We refer to your request for access to documents submitted to the European Commission on 19 December 2017 via the online platform AskTheEU.org, reassigned to the Research Executive Agency (REA) on 22 December 2017 and registered on the same date under the above mentioned reference number.

1. SCOPE OF YOUR REQUEST

Your application concerns the project No 653587, LAW-TRAIN, in particular you requested:

"Documents containing:

- 1. The ethics review of the Horizon 2020-programme Law-Train that was conducted on the 26th of October, 2016.*
- 2. The technical review of the Horizon 2020-programme Law-Train.*
- 3. Any other technical or ethical review of the Horizon 2020-programme Law-Train that has been conducted - if it has been conducted - in 2017.*
- 4. The Horizon2020-programme Law-Train's budget".*

This request is handled within the scope of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹.

2. DISCLOSURE OF THE REQUESTED DOCUMENTS

Having examined your request under the provisions of Regulation (EC) N° 1049/2001 regarding public access to documents, we consider that the documents related to your request are:

- 1) The Ethics Check Report of 27 October 2016;
- 2) The Expert Review Report of 11 July 2016 (Ares(2016)3443843);
- 3) The letter on results of the first review dated 14 July 2016 (Ares(2016)3443843);
- 4) The Consolidated Review Report of 20 July 2017 (Ares(2017)3849422);
- 5) The letter on the results of the second review dated 1 August 2017 (Ares(2017)3849422);
- 6) The grant agreement containing the estimated budget for the action (Ares(2015)1706169).

Following the examination of the requested documents, we regret to inform you that access to the aforementioned documents cannot be granted as disclosure is precluded by the exceptions to the right of access laid down in Articles 4.1 (b) and 4(2) first indent of Regulation (EC) No 1049/2001, namely the protection of privacy and the integrity of the individual (in particular under the relevant Community legislation regarding the protection of personal data) and the protection of commercial interests of a natural or legal person including intellectual property.

2.1 Protection of privacy and integrity of the individual

The documents contain personal data of individuals related to the project which are not in the public domain. Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data.

When access is requested to documents containing personal data Regulation (EC) No 45/2001 becomes fully applicable.² Article 8 (b) of Regulation (EC) No 45/2001 stipulates that personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

¹ Regulation (EC) N° 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 L145, 31.05.2001, page 43, hereinafter "Regulation N° 1049/2001".

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, *Commission v. The Bavarian Lager Co. Ltd.* ECR 2010 I-06055.

We consider that, with the information available in your request, the necessity of disclosing the personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the concerned individuals. The release of personal data of the individuals concerned would potentially subject them to external pressure. It cannot therefore be assumed that such release would not prejudice their legitimate rights.

The exception laid down in Article 4(1) (b) of Regulation (EC) No 1049/2001, the protection of privacy and the integrity of the individual is an absolute exception that does not have to be balanced against the public interest in disclosure.

2.2 Protection of commercial interests of natural and legal persons

The requested documents also contain some sensitive commercial information of the project that is not in the public domain, for instance, references to the project's methodologies, technologies, working modalities, strengths and weaknesses can be found in each of the requested documents. Pursuant to Article 4(2) first indent of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property.

We consider that the above-mentioned sensitive commercial information has commercial value for the entities participating in the project consortium. In our view, releasing this information into public domain would give the competitors of the consortium an unfair advantage. Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to the documents.

The exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies, unless there is an overriding public interest in disclosure of the requested documents. Such an interest must, first, be a public interest and secondly, outweigh the harm caused by disclosure. In your application you did not bring forward any argument to justify the existence of an overriding public interest in releasing the requested documents. In this instance, we have found no elements which could indicate the existence of such an overriding public interest in the sense of the Regulation (EC) No 1049/2001 that would outweigh the need to protect the interests identified in this reply.

2.3 Assessment of potential partial access

Having examined the requested documents, we have found that only a very small part of its content, dispersed throughout the documents is not protected by the exceptions in Articles 4(1) (b), and 4(2) first indent of Regulation (EC) No 1049/2001. In our view, providing you with a document in which non-sensitive information is dispersed and thus, providing you with the remaining parts of the document would not be of any value to you. It clearly follows from the EU Court of Justice case-law (T-204/99 and T-181/10) that "in cases where examination of the documents in question shows that partial access would be meaningless because the parts of the documents that could be disclosed would be of no use to the applicant" the institutions are

"entitled to refuse partial access".³ Consequently we do not provide partial access to redacted copied of the documents as such access would be meaningless.

However, we would like to inform you that some information contained in the documents, including the Law Train's budget that you requested, are available on the following websites:

http://cordis.europa.eu/project/rcn/194874_en.html

http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/ethics/h2020_hi_ethics-self-assess_en.pdf

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Director of the REA to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to Mr Marc TACHELET, Director of the REA, at the following address:

Research Executive Agency
Covent Garden building
COV2 – 18/136
Place Charles Rogier, 16
1210 Brussels

Yours sincerely,
BARBARA KAMPIS

³Judgement of the Court of Justice of the EU of 12 July 2001 in case T-204/99, *Olli Mattila v Council of the EU and Commission of the EC* and Judgement of the Court of Justice of the EU of 20 March 2014 in case T-181/10, *Reagens SpA v European Commission*.