



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

The Director- General

Brussels,  
CONNECT/R4

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## **REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT**

**Subject: Your application for access to documents- Ref GestDem 2019/6076**

Dear Mr Vranken,

We refer to your email, dated 25 October 2019 wherein you make a 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 the same day under the abovementioned reference number. We also refer to our holding reply, dated 22 November 2019, our reference Ares(2019)7225205, 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**

You requested access to: *“All documents -including but not limited to e-mails, reports, minutes, etc. - relating to meetings with the company Atos SE”*.

In this regard reference is made to our clarification request dated 30 October 2019, our reference Ares(2019)6732620 and to your reply, dated 31 October 2019, our reference, Ares(2019)680230, wherein you clarified that:

- Your request covers documents since 1/11/2014.
- ATOS SE subsidiaries are excluded from the scope of this request.

- Your request concerns not only meetings where only ATOS SE was represented but also meetings in which ATOS SE together with other companies was present.
- Both policy-making related meetings and meetings concerning projects in which ATOS SE was involved are covered by your request.
- The request concerns meetings between ATOS at political (Commissioner(s) to which DG CONNECT reports) and administrative level (Director-General and services).

Given the wide-scope of your request and the involvement of the entire DG CONNECT and two Cabinets, we contacted you on 19 November 2019 with a view to finding a fair solution based on Article 6(3) of Regulation 1049/2001 (our reference, Ares(2019)7143824). As indicated in our fair solution proposal, only a maximum of 20 documents could be dealt with within the remaining time.

By your email dated 21 November 2019 (our reference, Ares(2019)7340857) you requested to receive the documents related to the following categories of meetings (in order of priority):

- Meetings between Commissioners/ DG CONNECT officials and ATOS SE representatives,
- European Cybersecurity Organisation meetings,
- Stakeholder forum,
- Working Group Meeting on Networking among Digital Innovation Hubs (DIHs).

## 2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

Within the timeframe provided in Article 7 of Regulation 1049/2001, we were able to identify and assess the following documents relating to meetings between Commissioners / DG CONNECT officials and ATOS SE representatives.

The following documents have been identified:

- **Document No 1:** Steering Brief for the meeting with ATOS on 9 December 2014 and Background Brief (**Document No 1a**)
- **Document No 2:** Back to Office Report (BTO) of meeting on 9 December 2014 (industrial commercialization of FIWARE)
- **Document No 3:** Letter to ATOS 6 October 2015, Invitation for participation in the plenary panel discussion at the ICT 2015 Conference, 20 October 2015, Lisbon
- **Document No 4:** Email of 4 May 2015- Meeting request,
- **Document No 5:** Email of 23 June 2015- Meeting request
- **Document No 6:** Briefing for the meeting between ATOS and Commissioner Oettinger on 2 July 2015 and its Annexes: Annex I- Background (**Document No 6a**), Annex II- CV (**Document No 6b**), Annex III- Company profile (**Document No 6c**)
- **Document No 7:** Back to Office Report (BTO) of the meeting on 2 July 2015
- **Document No 8:** Briefing for the meeting between FIWARE core industry group and Roberto Viola on 20 January 2016
- **Document No 9:** Back to Office Report (BTO) of the meeting with FIWARE Industry on 20 January 2016

- **Document No 10:** Steering Brief, Gail Kent at FIWARE Foundation event, Vienna, 1 June 2016, Background note (**Document No 10a**) and detailed agenda-information (**Document No 10b**)
- **Document No 11:** Back to Office Report (BTO) of the FIWARE Foundation Forum on 1 June 2016
- **Document No 12:** Back to Office Report (BTO) of the meeting on 10 June 2016
- **Document No 13:** Back to Office Report (BTO) of the meeting on 25 October 2016
- **Document No 14:** Briefing for the Mission to FIWARE summit, in Malaga, 13-15 December 2016
- **Document No 15:** Back to Office Report (BTO) of the meeting with FIWARE Foundation on 14 December 2016
- **Document No 16:** Invitation to ATOS for the FIWARE Open Day, 7 March 2017 and Draft Agenda (**Document No 16a**)
- **Document No 17:** Letter of Commissioner Gabriel to ATOS, 22 December 2017
- **Document No 18:** Email from ATOS, 5 January 2018
- **Document No 19:** Back to Office Report (BTO) of the meeting on 7 February 2018 and its Annexes: Presentation (**Document No 19a**) and Position Paper, The rise of industrial data platform (**Document No 19b**)
- **Document No 20:** Back to Office Report (BTO) of the meeting on 17 December 2018.

### **3. ASSESSMENT UNDER REGULATION 1049/2001**

Following an examination of the documents requested under the provisions of Regulation 1049/2001 regarding public access to documents and taking into account the opinion of the third parties, we have arrived at the conclusion that full access can be granted for one document. Partial access can be granted for 23 documents and disclosure will be refused for five documents, as their disclosure or parts thereof is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001. For the documents that will be partially disclosed, some parts of the documents have been also blanked out as being out of scope.

#### **A. Full disclosure**

Document No 10 can be fully disclosed.

#### **B. Partial disclosure**

##### *(i) Protection of privacy and integrity of individuals*

Parts of Documents No 1, 1a, 2-6a, 6c, 7-9, 10a, 10b, 11, 14-19, 20 contain personal data, in particular names, initials, functions, contact details, CV details, handwritten signatures and notes of the Commission staff and third parties' staff. Pursuant to Article 4(1)(b) of Regulation 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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EC) No 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<sup>1</sup> ('Regulation 2018/1725').

Indeed, Article 3(1) of Regulation 2018/1725 provides that personal data 'means any information relating to an identified or identifiable natural person [...]'. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data<sup>2</sup>. Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff numbers of an institution are to be considered personal data<sup>3</sup>.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, personal data shall only be transmitted if '[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

In your application, you do not put forward any arguments to establish the necessity to have the personal data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy.

Consequently, we conclude that access cannot be granted to the abovementioned personal data, 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.

*(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

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<sup>1</sup> Official Journal L 205 of 21.11.2018, p. 39.

<sup>2</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, Peter Novak v Data Protection Commissioner, request for a preliminary ruling, paragraphs 33-35, ECLI:EU:T:2018:560

<sup>3</sup> Judgment of the General Court of 19 September 2018 in case T-39/17, Port de Brest v Commission, paragraphs 43-44, ECLI:EU:T:2018:560.

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 No 2, 5, 7, 9 and 19 contain sensitive information relating to the third parties' activities, positions and business relations. Disclosure of these parts of the documents would seriously undermine the third parties' commercial interests.

Consequently, the above-mentioned parts of Documents 2, 5, 7, 9 and 19 have been blanked out.

### **C. Non-disclosure of documents**

We regret to inform you that access cannot be granted to Document No 6b, Document No 12, Document No 13, Documents No 19a and 19b.

Document No 6b contains personal data, in particular names, functions and CV details of the third party's staff. Therefore access to this document has to be refused for the reasons set out in Section 3(b) above.

Documents No 12 and 13 contain sensitive information relating to ATOS' positions, strategies and relations. Disclosure of these documents would seriously undermine the company's commercial interests. Furthermore, they contain personal data, in particular names and functions of the Commission staff and third parties to which access has to be refused for the reasons set out in Section B (i) above.

Documents No 19a and 19b originate from third parties. Within the statutory deadlines for the request, we could not achieve certainty concerning the application of exceptions under Article 4. Taking this into account, we consider that disclosure is prevented by the exceptions of Article 4(1)(b) and 4(2) first indent of Regulation No 1049/2001 since they contain personal data of the third parties and commercially sensitive information, in particular information related to the companies' position and strategies, decisions and relations.

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

#### **4. OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

The exception laid down in Article 4(2) of Regulation 1049/2001 applies, 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 Documents No 6b,

12, 13, 19a and 19b and of the respective parts of Documents No 7 and 9, but we have not been able to identify such an interest.

## **5. REUSE OF DOCUMENTS**

Documents No 4, 5 and 18 originate from third parties. They are disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on it. These documents do not reflect the position of the European Commission and cannot be quoted as such.

Documents No 1, 1a, 2, 6, 6a, 6c,7, 8, 9, 10, 10 a, 10b, 11, 14, 15, 19, 20 were drawn up for internal use under the responsibility of the relevant services of the European Commission. They solely reflect the services' interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer, which were not consulted on the content. They do not reflect the position of the European Commission and cannot be quoted as such. You may reuse these documents as well as Documents No 3, 16, 16a, 17 free of charge for non-commercial and commercial purposes provided that the source is acknowledged, 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 re-use.

## **6. CONFIRMATORY APPLICATION**

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory 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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

(e-Signed)  
Roberto Viola

Enclosures: (24)