



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

**The Director-General**

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*By registered letter with acknowledgment  
of receipt*

Peter Teffer  
Ekko Voorkamer  
Bemuurde Weerd WZ 3  
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The Netherlands

*Advance copy by e-mail:*

[ask+request-7608-addaec2a@asktheeu.org](mailto:ask+request-7608-addaec2a@asktheeu.org)

**Subject: Your application for public access to documents – GestDem Ref No 2020/0480**

Dear Mr Teffer,

We refer to your email dated 24/01/2020 in which you submitted an application for access to documents within the framework of Regulation (EC) 1049/2001<sup>1</sup>.

**1. SCOPE OF YOUR REQUEST**

You requested access to the following documents:

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 11/12/2019 meeting between Adrienn Kiraly and IBM*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 04/12/2019 meeting between Commissioner Mariya Gabriel and INSERM*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 04/12/2019 meeting between Commissioner Mariya Gabriel and Robert Bosch GmbH*

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<sup>1</sup> 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) , hereinafter referred to as 'Regulation (EC) 1049/2001'.

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 05/12/2019 meeting between Commissioner Mariya Gabriel and EU-LIFE*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 10/12/2019 meeting between Commissioner Mariya Gabriel and Science Europe (SE)*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 10/12/2019 meeting between Commissioner Mariya Gabriel and European Brain Council (EBC)*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 10/12/2019 meeting between Commissioner Mariya Gabriel and European Science Foundation (ESF)*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 10/12/2019 meeting between Commissioner Mariya Gabriel and Siemens AG (SAG)*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 11/12/2019 meeting between Commissioner Mariya Gabriel and AeroSpace and Defence Industries Association of Europe (ASD)*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 11/12/2019 meeting between Commissioner Mariya Gabriel and Airbus*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 12/12/2019 meeting between Commissioner Mariya Gabriel and BUSINESSEUROPE*

We regret to inform you that we have not identified any documents that would correspond to the description of your application regarding the first and seventh point, namely:

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 11/12/2019 meeting between Adrienn Kiraly and IBM*

*- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the 10/12/2019 meeting between Commissioner Mariya Gabriel and European Science Foundation (ESF)*

Therefore, we are not in position to handle this part of your request. As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution.

With regard to the remaining parts of your request, we have identified the following documents falling within the scope (hereinafter the “*requested documents*”):

1. Ares(2019)6096325\_request for an appointment on December 4th with Inserm
2. 1404\_Briefing Bosch\_V2
3. 1404\_Briefing Bosch\_V2\_(002)
4. Meeting in Brussels \_ 4 December 2019
5. 2019-12-09\_European Commission-European Commissioner for Digital Economy and Society-Mariya Gabriel
6. EULIFEMeeting\_Agenda\_5DEC2019
7. BASIS (CAB GABRIEL 1406) - EU-LIFE research centres alliance G2
8. EU\_LIFE\_introduction\_5Dec2019
9. SummaryEULIFE\_meeting\_5Dec2019\_2CMG
10. EULIFE\_Recommendations\_ERANARRATIVE\_August2019\_2ERAC
11. Ares(2019)7690660 EU-LIFE I Thank you and follow up
12. 2019-12-10 Gabriel - Science Europe – Final
13. 1421 CAB Gabriel Science Europe\_
14. 20191104 2nd Science Europe Letter to Commissioner Gabriel
15. Briefing contribution Unit E2\_meeting Gabriel\_EBC BASIS 1422\_02122019
16. CAB GABRIEL 3 - Brief bilateral meeting with - 11 December 2019\_
17. Speech\_FINAL\_ASD Board Meeting
18. FINAL\_ASD Board Meeting 11 Dec - BASIS 1413
19. Letter from ASD President
20. ASD 2019 Facts and Figures
21. ASD 2019 Corporate folder
22. Letter to Commissioner Gabriel
23. Annex 2 - AirbusReplyConsultationPartnershipsHorizonEurope\_RTD
24. cab gabriel 1335 airbus CEO G Faury\_w rtd\_
25. Ares(2019)7225096 Business Europe

## **2. EXAMINATION UNDER REGULATION (EC) NO 1049/2001**

After a concrete assessment of the requested documents, we have concluded that:

- Access can be granted to documents under number 20 and 21. The document under number 20 is already public.  
The document under number 21 contains public information.
- Partial access can be granted to documents under numbers 1 to 19 and 22 to 25. Please note that certain parts of the specific documents have been expunged, as their content must be protected in accordance with the exceptions concerning the protection of commercial interests and the protection as regards the protection of personal data provided under Article 4 of Regulation EC (No) 1049/2001.

Please see below the analysis on the applicable exceptions:

### **2.1. Protection of commercial interests of a natural or legal person, including intellectual property**

Article 4(2), first indent, of Regulation (EC) 1049/2001 provides that "[t]he 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".

Parts of the requested documents under numbers 2, 3, 24, have been redacted in accordance with the specific exception. More specifically, the views or positions of third parties – authors of the requested documents on a particular subject as well as their strategic plans, have been expunged.

Disclosure of the specific information could have a negative impact on the commercial interests of the entities in question by revealing to the public details concerning the professional activities of the specific entities.

Pursuant to article 4(2) of Regulation (EC) No 1049/2001, the exception to the right of access must be waived if there is an overriding public interest permitting the disclosure of the requested documents. In order for such an overriding public interest to exist, this interest, firstly, has to be public and, secondly, overriding, i.e. in this case it must outweigh the interest protected under article 4(2), first indent. We consider that in the present case there are no elements capable of showing the existence of an overriding public interest in disclosure of the refused documents that would outweigh the public interest in the protection of the commercial interests.

## 2.2. Protection of privacy and the integrity of the individual

According to Article 4(1)(b) of Regulation (EC) No 1049/2001, access must be refused where 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<sup>2</sup>.

All of the partially disclosed documents contain personal data such as names, surnames, functions, office numbers and e-mail addresses of the Commission's officials not having the function of senior management staff and of the third parties identified in the documents, as well as information that could lead to the identification of individuals. This information clearly constitutes personal data in the meaning of Article 3(1) of Regulation (EU) 2018/1725.

Pursuant to Article 9(1)(b) of Regulation (EU) 2018/1725, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies 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*".

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

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<sup>2</sup> 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).

Therefore, personal data have been withheld from the requested documents.

Please note that the exception of Article 4(1)(b) has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

### **3. DISCLAIMER AND RE-USE OF DOCUMENTS**

Please note that documents received by the Commission from third parties are disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on it. They do not reflect the position of the Commission and cannot be quoted as such.

With regard to the remaining documents, drafted by the services of the European Commission, you may reuse the disclosed documents 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 reuse.

### **4. MEANS OF REDRESS**

In accordance with Article 7(2) of Regulation (EC) 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**  
**Unit SG C.1 – Transparency, document management & access to documents**  
**BERL 7/076**  
**B-1049 Brussels**  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

Jean-Eric Paquet

Enclosure: requested documents, expunged from personal data and from information affecting commercial interests