



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

Director General

Brussels,
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Ms Paula Castro
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Dear Ms Castro,

Subject: Your application for access to documents – GESTDEM 2021/7222

We refer to your e-mail of 22 November 2021, in which you make a request for access to documents, registered on the next day under the above-mentioned reference number. We apologise for the delay in dealing with your request and thank you for your patience.

You request access to *“All documentation, including, but not limited to, attendance lists, agendas, background papers, minutes/notes and email correspondence about or summarising, the following meetings of the Commissioner Mairead McGuinness and Cabinet with multiple organisations.*

- 1. Meeting of BNP PARIBAS (BNPP) with Commissioner Mairead McGuinness on the 09/10/2021 on economic outlook, Basel III, Banking Union*
- 2. Meeting of Deutsche Bank AG (DB) with Commissioner Mairead McGuinness on the 14/10/2021 on Basel III, Banking Union, Clearing, Financial education*
- 3. Meeting of Deutsche Bank AG (DB) with Tommy De Temmerman on the 14/10/2021 on Basel III, Banking Union, Clearing, Financial education*
- 4. Meeting of Asociación Española de Banca (AEB) Banco Santander, S.A. BANCO BILBAO VIZCAYA ARGENTARIA (BBVA) with Tommy De Temmerman on the 20/10/2021 on Basel III (The meeting was shared with the Cabinet Dombrovskis)*
- 5. Meeting of BUSINESSEUROPE with Katherine Power on the 09/11/2021 on Sustainable finance”*

Documents and exceptions

We have found 10 documents falling under the scope of your request. They are listed on the last page of this letter, and those which can be released are attached to this letter. Documents 1 and 3 are fully released.

Following an examination under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have concluded that full disclosure of the rest of the documents is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

A complete disclosure of the identified documents 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 names and contact information of Commission staff members not pertaining to the senior management, the names and contact details of other natural persons and other information relating to identified or identifiable natural persons.

Article 9(1)(b) of the Data Protection Regulation 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 these personal data nor do you put forward 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. This exception applies partially to documents 2, 6, 7 and 10, and covers entirely document 9, which can therefore not be released at all.

Documents 4 and 5 are also covered by the exceptions **protecting the decision-making process of the Commission**. These documents are drafted for internal purposes in the framework of internal exchanges and deliberations. Disclosure of such content would seriously undermine the institution's decision-making process, as it would deter Commission officials from freely exchanging in writing information and opinions, which is essential for the Commission to take informed decisions.

Furthermore, parts of them reveal policy options for upcoming proposals that are still under internal analysis, consideration and reflection. Pursuant to settled case law, the exception of the protection of ongoing decision-making process may be applied where disclosure of preparatory documents would result in a serious, non-hypothetical and objectively justified risk of self-censorship. In addition, the redacted parts refer to a pending initiative and contain preliminary views, opinions and speculations, the disclosure of which would be misleading and would seriously undermine the related ongoing decision-making process. Therefore, the exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 cover documents 4 and 5.

Documents 4, 5, 8 and 10 contain information the release of which could potentially harm the **commercial interests of companies or stakeholders**, as putting this information in the

public domain would affect their competitive position on the market by revealing details on their know-how or business plans to the public at large. Consequently, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to these documents.

As a consequence, documents 4, 5 and 8 are covered in their entirety by the exceptions in Article 4 of Regulation (EC) No 1049/2001 and cannot be disclosed to you.

Final remarks

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure. We note that you do not put forward any elements to demonstrate the existence of an overriding public interest in disclosure of the documents requested. Nor have we, based on our own analysis, been able to identify any elements capable of demonstrating the existence of a public interest that would override the need to protect the interests under Article 4(2) and (3) of Regulation (EC) No 1049/2001.

Please note that the disclosure of documents originating from third parties is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

As regards the minutes of meetings, please note that they are drawn up for internal use and they solely reflect the authors' interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which were not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

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

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

Yours sincerely,

John BERRIGAN
Director-General

List of documents:

1. Ares 2021 6452136 Minutes Meeting with Spanish Banks (fully released)
2. Ares 2021 6307975 Minutes meeting Deutsche Bank (partially released)
3. Ares 2021 6046173 Minutes meeting with BNPP (fully released)
4. Briefing meeting with Deutsche Bank (not released)
5. Briefing meeting with BNP Paribas (not released)
6. Ares 2022 179675 Minutes meeting BusinessEurope (partially released)
7. Ares 2021 4059501 BusinessEurope invitation (partially released)
8. Ares 2022 179367 Correspondence BusinessEurope (not released)
9. Ares 2022 179367 CV profiles (not released)
10. Ares 2022 179367 Advisory group BusinessEurope (partially released)

Attachments: 6 documents (2 fully and 4 partially released)