Subject: Your application for access to documents – GestDem 2022/1041

Dear Madam,

We refer to your application dated 14 February 2022 in which you make a request for access to documents, registered on 18 February 2022 under the abovementioned reference number.

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 cabinet members of Commissioner Adina-Ioana Vălean with multiple organisations.

1. Meeting with International Consolidated Airlines Group (IAG) on 19/07/2021 on the Challenges of air transport after COVID.
2. Meeting with International Consolidated Airlines Group (IAG) on 23/09/2021 on Meeting to discuss the state of play of travel.
3. Meeting with Airbus on 28/09/2021 on Meeting to discuss the latest developments of the aviation sector.
(…)
5. Meeting with Rolls Royce on 27/10/2021 to discuss Decarbonisation and activities within Clean Sky/Clean Aviation.”

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of other units of the Directorate-General for Mobility and Transport
(DG MOVE), parts of your request have been attributed to other units\(^1\). This reply relates only to the documents concerning the meetings listed above. You will receive the replies from the other respective units of DG MOVE in due course.

I consider your request to cover documents held up to the date of your initial application, i.e. 14 February 2022. Moreover, since no meeting took place between Members of the Cabinet of Commissioner Adina-Ioana Vălean and the International Consolidated Airlines Group (IAG) on 23 September 2021, I interpret your request as referring to the meeting between a Member of the Cabinet of the Commissioner and American Airlines on that same date.

Meeting with International Consolidated Airlines Group (IAG) on 19/07/2021 on the Challenges of air transport after COVID

Having examined your request, we have identified the following documents as falling within the scope of your application:

- Briefing prepared by my services for a meeting between Commissioner Vălean and a representative of Iberia on 19/07/2021 (hereafter ‘document 1’),
- Read Out of the meeting between Commissioner Vălean and a representative of Iberia on 19/07/2021 (hereafter ‘document 2’).

Meeting with American Airlines on 23/09/2021 to discuss the state of play of travel

Having examined your request, we have identified the following document as falling within the scope of your application:

- Meeting request made by Latham & Watkins on behalf of American Airlines, dated 14 September 2021 (hereafter ‘document 3’).

Meeting with Airbus on 28/09/2021 to discuss the latest developments of the aviation sector

Having examined your request, we have identified the following documents as falling within the scope of your application:

- Meeting request made by Airbus, dated 8 September 2021 (hereafter ‘document 4’);
- Flash report, dated 28 September 2021 (hereafter ‘document 5’).

Meeting with Rolls Royce on 27/10/2021 to discuss Decarbonisation and activities within Clean Sky/Clean Aviation

Having examined your request, we have identified the following document as falling within the scope of your application:

- Meeting request made by Rolls Royce dated 21 October 2021, (hereafter ‘document 6’).

\(^1\) In particular, the request registered under the reference number GESTDEM 2022/1042, which concerns the “Meeting with General Motors on 21/10/2021 to discuss Sustainable and Smart mobility”.
Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (hereinafter ‘Regulation (EC) No 1049/2001’), I have come to the conclusion that all documents may be partially disclosed. Some parts of the documents have been redacted, as their full disclosure is prevented by the exception concerning the protection of privacy and the integrity of individuals outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

— the names-initials and contact information of Commission staff members not pertaining to the senior management;

— the names-initials and contact details of other natural persons;

— other information relating to identified or identifiable natural persons, in particular references to functions of natural persons, to the extent that these would enable their identification.

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 European Union legislation regarding the protection of personal data.


In particular, 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.

In its judgment in Case C-28/08 P (Bavarian Lager), the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.

In your application, you indicate that your address is in the United Kingdom. Transfers of personal data from the Commission to countries that are not members of the European Economic Area (EEA) are regulated under Chapter V of the Data Protection Regulation.

According to Article 47(1) of this Regulation, a transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that country, or the

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6 Whereas this judgment specifically related to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.
international organisation in question ensures an adequate level of protection and where the personal data are transferred solely to allow tasks within the competence of the controller to be carried out.

Based on the information available, the country of your residence is recognised by the Commission as ensuring an adequate level of protection. However, we would further like to inform you that pursuant to Article 9(1)(b) of Regulation 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’.

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

According to Article 9(1)(b) of the Regulation (EU) 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 to you for a specific purpose in the public interest. It is only in that case the European Commission has to examine whether there is a reason to assume that the legitimate interests of the data subject might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

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. 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 and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the 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.

Please note that the disclosed briefing and meeting reports were drawn up for internal use under the responsibility of the relevant services of the Directorate-General for Mobility and Transport. They solely reflect the authors’ or the services’ interpretation of the interventions made, and do not set out any official position of the third parties to which the documents refer. They also do 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 submit 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:
The COVID-19 outbreak undoubtedly has an impact on the process of handling access to documents requests under Regulation (EC) No 1049/2001. Given large-scale teleworking of the Commission services, all replies, which should normally be sent via registered post, currently are sent only by e-mail. In this regard, we kindly ask you to confirm receipt of this email.

Yours faithfully,

(e-signed)

Flor DIAZ PULIDO

Attachments: 6