



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Recovery & Resilience Task Force
Director - Recovery & Resilience II

Brussels
SG.RECOVER.B.3/SC

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2022/3167

We refer to your e-mail dated 01/06/2022 in which you make a request for access to documents, registered on the same day under the above mentioned reference number.

You request access to:

All documents -including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, text messages, operational conclusions, lines to take, briefings, e-mails, letters, and presentations -related to the meeting between Dutch finance minister Sigrid Kaag and Executive Vice-President Valdis Dombrovskis on 31 May 2022

And

All documents -including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, text messages, operational conclusions, lines to take, briefings, e-mails, letters, and presentations -related to the video conference with Executive Vice-President Valdis Dombrovskis and social partners on RRF implementation and the economic governance review held on 10 February 2022

Your application concerns the following documents:

- Minutes of the Social partners meeting on RRF implementation and economic governance review on 10 February 2022, registered on 14 February 2022 with reference Ares(2022)1055410 (hereafter, Document 1).

Mr Peter Teffer
Overtoom 197
1054 HT Amsterdam
The Netherlands

- Briefing for the meeting with the Social Partners on RRF implementation and economic governance review on 10 February 2022, registered under the EVP4.2022.29.01 reference number (hereafter, Document 2).
- Briefing for the meeting with the Dutch Finance Minister Sigrid Kaag of 31 May 2022, registered under the EVP4.2022.122.02 reference number (hereafter, Document 3).

Having examined Document 1 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that Document 1 may be partially disclosed.

A complete disclosure of the document 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 it contains the names and professional functions of 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 any 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 document, 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.

This document was drawn up for internal use under the responsibility of the relevant Service of the Secretariat General. It solely reflects the service's interpretation of the interventions made and does not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

Document 2 relates to the internal briefing in preparation of the meeting with the Social Partners on RRF implementation and economic governance review, held on 10 February 2022.

Having examined Document 2 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that the document may be partially disclosed. Some parts of Document 2 have been redacted as their disclosure is prevented by the exceptions to the right of access laid down in the first subparagraph Article 4(3) of this Regulation.

The first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 provides that *'[a]ccess to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.'*

The redacted parts of Document 2 under the exceptions laid down in the first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 contain preliminary considerations and positions on possible future actions of the Commission. Disclosure of these parts of document 2 would undermine the decision-making process of the Commission in relation to the implementation of Recovery and Resilience Facility, as they would reveal possible positions and policy options on which a decision has not been taken yet.

The exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

Moreover, a complete disclosure of Document 2 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 it contains the names of Commission staff members not pertaining to the senior management and the names and professional functions of other natural persons. As for Document 1, 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 document, 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 this document is an internal briefing, drawn up for internal use under the responsibility of the relevant Services of the Commission. It does not reflect the position of the Commission and cannot be quoted as such.

Having examined Document 3 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted for this document, as disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(a) and in the first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001.

Document 3 relates to the internal briefing in preparation of the meeting of 31 May 2022 between the Minister of Finance of the Netherlands and the Executive Vice President Dombrovskis.

The fourth indent of Article 4(1)(a) of Regulation (EC) No 1049/2001 provides that *‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State’*.

The first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 provides that *‘[a]ccess to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure’*.

The disclosure of Document 3 would result in disclosing internal views and positions of the Commission on the financial and economic policy of the Netherlands, which could indeed undermine the protection of *“[...] the financial, monetary or economic policy of a Member State”*, as provided for in Article 4(1)(a) of Regulation (EC) No 1049/2001. Furthermore,

disclosure of the document would undermine the (ongoing) decision-making process, as provided for in Article 4(3) of the above-mentioned Regulation, as discussions are ongoing on the Dutch Recovery and Resilience Plan. This would generate unjustified pressure on the Commission, undermine the independence and objectivity of the decision-making process and the European Commission would be deprived of the possibility to explore all available paths for decision-making. This would also strain the working relations between the European Commission and the Dutch national authorities at a moment where discussions are ongoing on the Dutch Recovery and Resilience Plan.

We have considered whether partial access could be granted to Document 3. However, meaningful partial access for this document is not possible, as it is fully covered by the exceptions relating to the protection of financial and economic policy and of decision-making process, provided for in Article 4(1)(a) and 4(3) of Regulation 1049/2001.

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 email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

Maria Teresa Fábregas Fernandez

Enclosure: Document 1, Document 2.