



EUROPEAN COMMISSION
NEIGHBOURHOOD AND ENLARGEMENT NEGOTIATIONS

R - Resources
R.2 – Legal Issues

Brussels

Subject: Your application for access to documents

Ref.: EASE 2022/6665

Dear Ms Pacciardi,

I refer to your application for access to documents¹ registered under the above-mentioned reference number and our subsequent correspondence².

Your initial request read:

“Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, in relation to the implementation of the project “Recovery, Stability and socio-economic development in Libya- Phase 2 (T05-EUTF-NOA-LY-13).

I am requesting documents produced since July 2020 which contain the following information which:

- *In-depth Guidelines/minutes of meetings on how to carry out the activities generically indicated in the Action Documents of projects*
- *Any agreement signed between the EU (or AICS) and third parties*
- *Documents with information concerning detailed activities that have been implemented by the Italian Cooperation (AICS) and the local partners*

¹ Refs. Ares(2022)7961091 and Ares(2022)8020201.

² Refs. Ares(2022)8461061, Ares(2023)67962 and Ares(2023)796044.

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By email only to:

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- *Monitoring reports on performed activities*
- *Minutes of the meetings of the Operational Committee, as the body responsible for reviewing and approving the actions financed by the EUTF, and evaluating reports of the impact of this project on migrants and refugees*
- *Financial reports detailing the expenditure items of the €25,000,000 budget invested in the project, in particular the €16,000,000, received by the Italian Cooperation (AICS)”*

We asked for clarifications, and you responded³:

Our 1st question: *“In-depth Guidelines/minutes of meetings on how to carry out the activities generically indicated in the Action Documents of projects”. This question is extremely vague; could you please specify of which body you are precisely ask “Guidelines/minutes of meetings?”*

Your response: *“In relation to the first point of you clarification request, please note that I am referring to minutes of the meetings of the Project Steering Committee (as well as other documents related to the meetings of such Committee), as well as any other existing minutes of meetings in relation to the project T05-EUTF-NOA-LY-13.”*

Our 2nd question: *“In addition, could you please explain in more detail what “how to carry out the activities generically indicated in the Action Documents of projects” exactly mean? Are you referring to contractual procedures, regulating the contracts between the EU and the Implementing Partners?”*

Your response: *“In addition, and concerning the second part of the question you ask to clarify, I request access to the following documents:*

- *Contractual procedures between the EU and the Implementing Partners*
- *Documents related to any workshop/meeting on the state of play of the project implementation and future developments*
- *Any existing narrative report on the project (e.g. quarterly narrative information notes, interim narrative information notes, notes on the project etc.)*
- *Any existing report related to the negotiation, procurement and direct award grants (and annexes)*
- *Any existing letters (or other written exchange) between DG NEAR and the Italian counterpart of the project (MAECI, AICS).”*

³ Ref. Ares(2022)8507232

Our 3rd question: *“Any agreement signed between the EU (or AICS) and third parties”. Does this question refer to AICS component of the programme T05-EUTF-NOA-LY-13 only, or also to those implemented by UNICEF and UNDP?”*

Our 4th question: *“Monitoring reports on performed activities” Does this question refer specifically to AICS component of the programme T05-EUTF-NOA-LY-13, or also to those implemented by UNICEF and UNDP?”*

Our 5th question: *“Financial reports detailing the expenditure items of the €25,000,000 budget invested in the project, in particular the €16,000,000, received by the Italia Cooperation (AICS).” Could you please clarify if you are interested in financial reports relating to UNDP and UNICEF components of the programme as well?”*

Your response to our 3rd, 4th and 5th questions: *“As for the other three clarification requests, I hereby clarify that I am interested only in the AICS component of the programme T05-EUTF-NOA-LY-13, and not in UNICEF and UNDP.”*

I also refer to our correspondence, in which we agreed to narrow down the scope of your application⁴.

Your application concerns 27 documents, which you can find listed in Annex I to this letter.

Having examined the documents under the provisions of Regulation (EC) No 1049/2001⁵, I have decided that:

- Full access can be granted to documents 1, 3, 4, 5, 6, 7, 13, 16, 18, 20, 22, 23, 24 and 26.
- Partial access can be granted to documents 2, 8, 14, 15, 17, 19, 21, 25 and 27 as full disclosure is prevented by the exception to the right of access laid down in Article 4(1)(b) (protection of the privacy and integrity of the individual) of Regulation (EC) No 1049/2001.

Documents 2, 3, 7, 8, 14, 18, 19, 21, 22, 23, 24, 25, 26 and 27 contain phrases, which are out of scope of this request and as therefore been redacted.

Note that documents 9, 10, 11 and 12 are the same as documents 2, 3, 4 and 7 respectively.

The justification regarding the exception laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001 is as follows:

Documents 2, 8, 14, 15, 17, 19, 21, 25 and 27 contain the following personal data:

- biometric data such as handwritten signatures;

⁴ Refs. Ares(2023)45968 Ares(2023)129373 and Ares(2023)136351.

⁵ 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, Official Journal L 145 of 31 May 2001, p. 43.

- the names/initials of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- other information relating to an identified or identifiable natural person (functions).

Article 9(1)(b) of the Data Protection Regulation⁶ 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 application, 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.

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 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.

I would also like to underline that Article 4(1)(b) of Regulation (EC) No 1049/2001 has an absolute character and does not envisage the possibility to demonstrate the existence of an overriding public interest.

Means of Redress

For the sake of good order, I further refer to Article 7(2) of Regulation (EC) No 1049/2001. Pursuant to this Article, 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 sincerely,

(e-signed)

Christos KOMNINOS

⁶ 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 of 21 November 2018, p. 39.

Head of Unit

Encl./ Annex I – List of documents
Documents 1-8, 13-27.