Subject: Your application for access to documents – EASE 2023/2843

Dear Sir,

We refer to your request for access to European Commission documents registered on 5 May 2023 under the above-mentioned reference number.

You mention that in 2015, the company Uber submitted complaints to DG GROW against France, Germany and Spain. In that context, you request access to “the three complaints and the EU-Pilot or Infringement identification numbers in case the matters were followed up by the Commission” and “the minutes and Commission briefings of the meeting between Uber representatives and Commissioner Bienkowska and Mr. Fabrice Comptour (CAB) on 22 January 2015”.

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of another Directorate-General, a part of your request has been attributed to the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) \(^{(1)}\). This reply relates only to the documents held by the Directorate-General for Mobility and Transport (DG MOVE). You either received or will receive the reply from DG GROW in due course.

Your application concerns the following documents held by DG MOVE:

- Letter from Uber’s lawyer to the Commission concerning the presentation of a complaint, dated 29 January 2015;
- Complaint from Uber to the Commission concerning an alleged breach of Union law by France, dated 29 January 2015;
- 11 Annexes to the abovementioned complaint.

\(^{(1)}\) Registered under number EASE 2023/2717.
We further inform you that all of the abovementioned documents relate to the infringement case registered under number INFR(2016)4070, and to the subsequent EU Pilot procedure EUP(2015)7564. Please also be informed that this case was closed on 6 June 2019, due to the withdrawal of the complaint by Uber.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents (2) (hereinafter ‘Regulation (EC) No 1049/2001’), we have come to the conclusion that Annexes 2 to 8 and 10 to 11 of the abovementioned complaint may be fully disclosed, as these documents are already in the public domain. Please find enclosed copies of these documents.

As regards the other documents listed above, their complete 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;
— handwritten signatures abbreviated signatures of 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.

The applicable legislation in this field is 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 (3) (hereinafter ‘Regulation (EU) 2018/1725’, or ‘Data Protection Regulation’).

In particular, Article 3(1) of Regulation (EU) 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 (4).


In its judgment in Case C-28/08 P (Bavarian Lager)⁽³⁾, 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⁽⁴⁾.

According to Article 9(1)(b) of the Data Protection Regulation, 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 (EU) 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 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. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subjects’ 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 these 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 contained in these 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 the disclosure of their personal data.

Please note that the documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules


⁽⁴⁾ 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 (EU) 2018/1725.
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.

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

**by asking for a review via your portal (¹) account** (available only for initial requests submitted via the portal account),

**or by mail:**

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,

Barbara JANKOVEC  
Head of Unit

Enclosure: 13 Documents

(¹) https://www.ec.europa.eu/transparency/documents-request