



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

The Acting Director-General

Brussels  
MOVE.DDG2.E.1

Mr Olivier Hoedeman  
Corporate Europe Observatory  
(CEO)  
Rue d'Edimbourg 26  
1050 Brussels  
Belgium

E-mail: [ask+request-12762-1a7b66e8@asktheeu.org](mailto:ask+request-12762-1a7b66e8@asktheeu.org)

**Subject: Your application for access to documents – EASE Case 2023/1701**

Dear Mr Hoedeman,

We refer to your request for access to European Commission documents registered on 17 March 2023 under the above-mentioned reference number.

You request access to the following documents:

*“1) Minutes and other notes from meetings (including the online meetings) of the Directorate-General for Mobility and Transport (hereinafter: DG MOVE) with stakeholders/lobbyists (from 1 March 2022 until the date of your request) in which the Dutch government’s intention to reduce flights at Amsterdam Schiphol airport was discussed;*

*2) All correspondence (including emails and instant messages) with stakeholders/lobbyists, from 1 March 2022 until the date of your request, about the Dutch government’s intention to reduce flights at Amsterdam Schiphol airport was discussed”.*

In particular, you asked for the minutes from the meetings of Henrik Hololei, previous Director-General for Mobility and Transport, with KLM Royal Dutch Airlines on 25 July 2022, Royal Schiphol Group on 19 October 2022, and Delta Air Lines on 15 November 2022.

I consider your request to cover documents held up to the date of your initial application, i.e. 17 March 2023.

We have identified the following documents as falling within the scope of your request:

*Concerning the letter of 1 July 2022 sent to DG MOVE by Airports Council International (ACI Europe) on the capacity reduction at Amsterdam Schiphol airport:*

- **1 July 2022\_1\_Redacted:** Email from Airports Council International to DG MOVE, dated 1 July 2022, providing a briefing note;

- **1 July 2022\_2:** Briefing note: “Amsterdam Airport Schiphol – reduction of flight movements” prepared by ACI Europe, dated June 2022, sent by email of 1 July 2022 to DG MOVE.

*Concerning the on-line meeting between DG MOVE and Air France-KLM (AF KLM) on 25 July 2022:*

- **25 July 2022\_1\_Redacted:** Email exchange between AF KLM and DG MOVE to schedule a meeting, dated between 11 July 2022 and 19 July 2022.

*Concerning the letter of 26 July 2022 sent by Dutch trade unions to Mrs Vălean, the Commissioner for Transport, about the Dutch decision to reduce the capacity of slots at Schiphol airport:*

- **26 July 2022\_1\_Redacted:** Email sent by the Dutch trade unions to the Commissioner for Transport, dated 26 July 2022;
- **26 July 2022\_2\_Redacted:** Letter sent by the Dutch trade unions to the Commissioner for Transport (annex to the email of 26 July 2022);
- **26 July 2022\_3\_Redacted:** Reply from the Commissioner Vălean’s Head of Cabinet Walter Goetz to the letter of the Dutch trade unions, dated 14 September 2022.

*Concerning the letter to Mrs Vălean, the Commissioner for Transport, sent by Airlines for Europe (A4E) on 29 July 2022:*

- **29 July 2022\_1\_Redacted:** Email sent by Airlines for Europe (A4E) to Mrs Vălean, the Commissioner for Transport, on 29 July 2022;
- **29 July 2022\_2\_Redacted:** letter to Mrs Vălean, the Commissioner for Transport, sent by Airlines for Europe (A4E) on 29 July 2022 (annex to the email of 29 July 2022).

*Concerning the letter sent to Mrs Vălean, the Commissioner for Transport, by Europeans for Fair Competition (E4FC) on 17 August 2022, concerning capacity reduction at Schiphol Airport:*

- **17 August 2022\_1\_Redacted:** Email sent to Mrs Vălean, the Commissioner for Transport, by Europeans for Fair Competition (E4FC) on 17 August 2022;
- **17 August 2022\_2:** Letter to Mrs Vălean, the Commissioner for Transport, sent by Europeans for Fair Competition (E4FC) on 17 August 2022 (annex to the email of 17 August 2022);
- **17 August 2022\_3\_Redacted:** Reply from Mrs Vălean, the Commissioner for Transport, to E4FC, dated 14 December 2022.

*Concerning the letter from Airlines for America sent to Henrik Hololei, Director-General for Mobility and Transport, on 7 September 2022:*

- **7 September 2022\_1\_Redacted:** Email from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 8 September 2022;
- **7 September 2022\_2\_Redacted:** Letter from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 7 September 2022 (annex to the email of 7 September 2022);

- **7 September 2022\_3\_Redacted:** Reply from DG MOVE to the letter from Airlines for America, dated 21 September 2022.

*Concerning a call held between DG MOVE, the Amsterdam Schiphol Airport and ACI Europe on 12 October 2022:*

- **12 October 2022\_1\_Redacted:** Report from a call held between the Directorate-General for Mobility and Transport, the Amsterdam Schiphol Airport and ACI Europe on 12 October 2022.

*Concerning the meeting held between Director-General for Mobility and Transport, Amsterdam Schiphol Airport and ACI Europe on 19 October 2022:*

- **19 October 2022\_1\_Redacted:** Request for a meeting between the Director-General for Mobility and Transport, Amsterdam Schiphol Airport and ACI Europe, dated 6 October 2022.

*Concerning the meeting between DG MOVE and a KLM delegation on 9 November 2022:*

- **9 November 2022\_1\_Redacted:** Email exchange between KLM and DG MOVE to set up a meeting, dated between 27 July 2022 and 3 November 2022.

*Concerning the meeting held between DG MOVE, AF KLM and KLM on 10 November 2022:*

- **10 November 2022\_1\_Redacted:** E-mail from a representative of KLM to Mr. Hololei, concerning the meeting to be held with Mr. Henrik Hololei, dated 7 October 2022;
- **10 November 2022\_2\_Redacted:** Meeting report authored by Commission staff, concerning the meeting held between Mr. Henrik Hololei and the Air France-KLM Group, dated 29 November 2022.

*Concerning the dinner of the Director-General for Mobility and Transport and Delta Air Lines on 15 November 2022:*

- **15 November 2022\_1\_Redacted:** Email exchange between staff of the Director-General for Mobility and Transport and Delta Air Lines to agree on a dinner and the subjects to be discussed during it, dated from 6 October 2022 to 25 October 2022.

*Concerning the meeting held between the Members of the Cabinet of Commissioner Vălean and Airlines for America on 6 December 2022:*

- **6 December 2022\_1\_Redacted:** Meeting report authored by Commission staff, concerning the meeting held between the Members of the Cabinet of Commissioner Vălean and Airlines for America, dated 6 December 2022;
- **6 December 2022\_2\_Redacted:** E-mail from a representative acting on behalf of Airlines for America to Commission staff, concerning the meeting to be held with the Members of the Cabinet of Commissioner Vălean, dated 15 November 2022.

*Concerning the letter of the Dutch trade unions to DG MOVE on the Dutch decision the reduce slots, dated 7 December 2022:*

- **7 December 2022\_1\_Redacted:** Email from Dutch trade unions to DG MOVE, dated 7 December 2022;
- **7 December 2022\_2\_Redacted:** The letter from Dutch trade unions to DG MOVE on the Dutch decision the reduce slots, dated 7 December 2022 (annex to the email of 7 December 2022).

*Concerning the meeting held between DG MOVE and KLM on 17 January 2023:*

- **17 January 2023\_1\_Redacted:** Minutes of the meeting held between DG MOVE and KLM on 17 January 2023.

*Concerning the letter sent to DG MOVE by Airlines for America on 3 January 2023 on the traffic reduction at the Schiphol airport:*

- **3 January 2023\_1\_Redacted:** Email from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 3 January 2023;
- **3 January 2023\_2\_Redacted:** Letters from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 7 September 2022 and 3 January 2023 (annex to the email of 3 January 2023).

*Concerning the meeting held between DG MOVE and Airlines for America on 31 January 2023:*

- **31 January 2023\_1\_Redacted:** Minutes of the meeting held between DG MOVE and Airlines for America on 31 January 2023.

*Concerning the letter sent to DG MOVE by KLM on 2 February 2023 on the publication of a Dutch regulation, capacity at Amsterdam Schiphol airport and a Balanced Approach session:*

- **2 February 2023\_1\_Redacted:** Email from KLM to DG MOVE dated 2 February 2023;
- **2 February 2023\_2:** Working translation into English of the Dutch draft law concerning noise control at Amsterdam Schiphol airport (annex to the email of 2 February 2023);
- **2 February 2023\_3:** KLM's memo on historical context of the New Noise Enforcement System – NNHS (annex to the email of 2 February 2023);
- **2 February 2023\_4\_Redacted:** Letter from KLM to the Dutch Minister in charge of transport, dated 2 February 2023, concerning questions related to the application of the Balanced Approach (annex to the email of 2 February 2023).

*Concerning the letter from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 17 February 2023:*

- **17 February 2023\_1\_Redacted:** Letters from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 7 September 2022, 3 January 2023 and 17 February 2023;
- **17 February 2023\_2\_Redacted:** Email from Airlines for America to Henrik Hololei, Director-General for Mobility and Transport, dated 17 February 2023.

*Concerning IATA's letter of 23 February 2023 to Mrs Vălean, the Commissioner for Transport, concerning the capacity reduction at Amsterdam Schiphol airport:*

- **23 February 2023\_1\_Redacted:** Emails from IATA to Mrs Vălean, the Commissioner for Transport, and Henrik Hololei, Director-General for Mobility and Transport, dated 27 February 2023;
- **23 February 2023\_2\_Redacted:** Letter form IATA to Mrs Vălean, the Commissioner for Transport, on a temporary regulation of the Minister of Infrastructure and Water Management of the Netherlands, dated 23 February 2023.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (1) (hereinafter ‘Regulation (EC) No 1049/2001’), we have come to the conclusion that the documents may be partially disclosed. Some parts of the documents have been redacted, as their full disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

First, some parts of document **31 January 2023\_1\_Redacted** have been redacted because their disclosure is prevented by the exception to the right of access laid down in Article 4(2), first indent of this Regulation.

Article 4(2), first indent of this Regulation sets out that “*The institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property (...), unless there is an overriding public interest in disclosure*”.

Some redacted parts of document **31 January 2023\_1\_Redacted** have been identified as containing commercially sensitive information of the companies concerned. Disclosure of these parts of the document would undermine the protection of the commercial interests of those companies, as putting this information in the public domain would affect their competitive position on the market. More specifically, this document contains information which, if made public, could jeopardise the commercial relations of North American air carriers with carriers and national authorities from certain third countries.

Therefore, the exception laid down in Article 4(2), first indent of Regulation (EC) No 1049/2001 applies to some redacted parts of this document.

The exceptions laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. I have examined whether there could be an overriding public interest in disclosure of the redacted parts of document **31 January 2023\_1\_Redacted**. However, I have not been able to identify in this case any other public interest capable of overriding the public interests protected by Article 4(2) of Regulation (EC) No 1049/2001.

Second, with regard to the 36 documents (with the file names ending with “Redacted”) listed above, a complete disclosure of the identified documents is prevented by the exception

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(<sup>1</sup>) 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, OJ L 145, 31.05.2001, p. 43.

concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001 <sup>(2)</sup>, 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 <sup>(3)</sup> (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 <sup>(4)</sup>.

In its judgment in Case C-28/08 P (Bavarian Lager) <sup>(5)</sup>, 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 <sup>(6)</sup>.

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

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<sup>(2)</sup> 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 (OJ L 145, 31.5.2001, p. 43).

<sup>(3)</sup> 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 205 of 21.11.2018, p. 39).

<sup>(4)</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, ECLI:EU:C:2017:994, paragraphs 33-35.

<sup>(5)</sup> Judgment of 29 June 2010 in Case C-28/08 P, *Commission v Bavarian Lager*, ECLI:EU:C:2010:378, paragraph 63.

<sup>(6)</sup> 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.

*“[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 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.

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 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.

Please also note that the disclosed minutes 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 services’ interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer, which were not consulted on their content. They do not reflect the position of the Commission and cannot be quoted as such.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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 <sup>(7)</sup> 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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

Maja BAKRAN MARCICH

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<sup>(7)</sup> <https://www.ec.europa.eu/transparency/documents-request>