Subject: Your application for public access to documents under Regulation (EC) No 1049/2001 – EASE 2023/6864

Dear Mr Azalbert,

I refer to your message of 8 October 2023, registered on 9 October 2023, in which you make a request for access to Commission documents in accordance with Article 6(1) of 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\(^1\) (hereinafter ‘Regulation (EC) No 1049/2001’), registered under the above-mentioned reference number.

Please accept our apologies for the delay in replying to your application.

1. **SCOPE OF YOUR REQUEST**

In your application, you request access to, I quote:

\(^1\) Could you please provide the invitation from the Renaissance party to Mrs von der Leyen and M Breton for the summer universities as well as a copy of the travel invoices (ticket / hotel). Please provide all correspondence exchanged in all forms and formats (electronic, paper, sms, email, whatsapp messages, EDI (electronic data interchange), or any other private or public messaging format) between the political party bearing the name "Renaissance" and the European Commission and in particular, Mrs von der Leyen and M Breton regarding their participation to the Renaissance launch of the EU election campaign held in Bordeaux on 7-8 October 2023.

2 - Could you please specify how much the European Commission allocates for this type of representation event?

3 - In the code of conduct, please specify under which clause it is stipulated that it is the role of commissioners to publicly display support for a political party?

4 - Could you please specify out of which pocket this trip is paid from? Is it paid for under the budget of the EU? Or is it paid for by the Renaissance party or affiliated party?

5 - a If it is paid for by the EU, could you please provide all documents related to the payment and which clause of the code of conduct allow for such a payment?

5 - b if it is paid for by the Renaissance party or other affiliated person/party, could you please explain how the code of conduct allows for such a payment to avoid it being considered as partisanism? Has it been declared by the respective person?

Due to the material scope of your application, its processing was split among the Secretariat-General (case EASE 2023/6864) and the Paymaster’s Office (case EASE 2023/5894). The present reply is limited to the invitations from the Renaissance party sent to the President and Commissioner Breton as well as the communication relating thereto requested under point 1 of your application. The part of point 1 relating to travel invoices is subject to the reply by the Paymaster’s Office. Considering that under points 2 to 5-b you do not request documents, they are treated as a request for information and will be answered by the Secretariat-General in a separate reply.

Further to these considerations, the Secretariat-General has identified the following documents as falling within the scope of the first part of point 1 of your application:

- Invitation to President von der Leyen - Campus européen de Renaissance, 7 and 8 October 2023 in Bordeaux, reference Ares(2023)4696125 – 06/07/2023 (hereinafter ‘document 1’), containing the following annexes:
  - Further information: Invitation to President von der Leyen - Campus européen de Renaissance, 7 and 8 October 2023 in Bordeaux (hereinafter ‘document 2’)
  - Background note European Campus (hereinafter ‘document 3’).

- Reply to the invitation to President von der Leyen - Campus européen de Renaissance, 7 and 8 October 2023 in Bordeaux, reference Ares(2023)5890249 – 30/08/2023 (hereinafter ‘document 4’)

- Invitation to Commissioner Breton - Campus européen de Renaissance, 7 and 8 October 2023 in Bordeaux, reference Ares(2023)6355861 – 20/09/2023 (hereinafter ‘document 5’), containing the following annex:
  - Reply to the invitation to Commissioner Breton - Campus européen de Renaissance, 7 and 8 October 2023 in Bordeaux (herein Annex after ‘document 6’);
2. **Assessment and Conclusions under Regulation (EC) No 1049/2001**

Further to the Secretariat-General’s assessment of the identified documents under the relevant provisions of Regulation (EC) No 1049/2001, I am pleased to inform you that:

- Full access is granted to document 3;
- Wide partial access is granted to documents 1, 2, 4, 5 and 6.

Please note that document 3 is provided to you after consultation of the third party who authored the document, the Renaissance party.

Please also note that as regards documents 1, 2, 4, 5 and 6, full disclosure is prevented by the exception to access to documents as enshrined in Article 4(1)(b) of Regulation (EC) No 1049/2001 (protection of privacy and the integrity of the individual).

The detailed reasons underpinning this assessment are set out below.

**2.1. Protection of privacy and the integrity of the individual**

Article 4(1)(b) of Regulation (EC) No 1049/2001 provides that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of […] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data’.

The Court of Justice has ruled that when a request is made for access to documents which contain personal data, 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 data² (hereinafter ‘Regulation (EC) No 45/2001’) becomes fully applicable³.


However, the case-law issued with regard to Regulation (EC) No 45/2001 remains relevant for the interpretation of Regulation (EU) 2018/1725.

---

According to the Court of Justice, Article 4(1)(b) of Regulation (EC) No 1049/2001 ‘requires that any undermining of privacy and the integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, and in particular with [the Data Protection] Regulation’.

Article 3(1) of Regulation (EU) 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person’.

As confirmed by the Court of Justice, ‘there is no reason of principle to justify excluding activities of a professional […] nature from the notion of private life’.

Documents 2, 5 and 6 contain personal data – such as names, surnames, contact details and job titles – pertaining to natural persons not acting in the capacity of a public figure. Documents 5 and 6 list participants in a panel discussion. The names of participants not acting in the capacity of a public figure, who are also listed in a publicly available programme, have been disclosed, whereas the names of participants who are not listed in the programme have been redacted. Furthermore, document 4 contains the personalised email address of a member of cabinet of the Commission. Two documents also contain handwritten signatures.

The names, as well as other data from which their identity can be deduced, undoubtedly constitute personal data in the meaning of Article 3(1) of Regulation (EU) 2018/1725.

Pursuant to Article 9(1)(b) of Regulation (EU) 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 processing in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

The Court of Justice has ruled that the institution does not have to examine by itself the existence of a need for transferring personal data. This is also clear from Article 9(1)(b)
of Regulation (EU) 2018/1725, which requires that the necessity to have the personal data transmitted must be established by the recipient.

According to Article 9(1)(b) of Regulation (EU) 2018/1725, the institution must examine the further conditions for the lawful processing of personal data only if the first condition is fulfilled, namely if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the institution must examine whether there is a reason to assume that the data subject’s legitimate interests 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 application, 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, according to the above-mentioned provision, the 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, there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by the 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, the Secretariat-General has concluded 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 the disclosure of the personal data concerned.

3. **OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

Please note that Article 4(1)(b) of Regulation (EC) No 1049/2001 does not include the possibility for the exceptions defined therein to be set aside by an overriding public interest.

4. **REUSE**

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the Commission Decision on the reuse of Commission documents. You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message

---

of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Please note that 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.

5. MEANS OF REDRESS

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 Secretariat-General of the Commission at the following address:

European Commission  
Secretariat-General  
Unit C.1. ‘Transparency, Document Management and Access to Documents’  
BERL 7/076  
B-1049 Brussels,  

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

Yours sincerely,

Tatjana Verrier  
Director

Enclosures: (6)