Subject: Your application for public access to documents under Regulation (EC) No 1049/2001 – EASE 2023/4613

Dear Mr Azalbert,

I refer to your e-mail of 1 June 2023, registered on 2 August 2023, in which you submitted an application 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 (hereinafter ‘Regulation (EC) No 1049/2001’), registered under the reference number mentioned in subject.

Please excuse the delay in replying to your application.

1. Scope of Your Application

In your application, you requested access to:

‘1. 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 organization bearing the name “Bilderberg Meeting” […] and the European Commission and in particular, those of the Commissioners who participated in the events of the organization.

2. All documents received, given, or written on site during the holding of the "meetings" of the Bilderberg group or in connection with the holding of the events,

3. All reports, work and reports drawn up by the Commissioners, their teams or the Commission concerning the "Bilderberg Meeting" group,

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participation in its events or its relations with the European institutions and their staff.

4. The regulations, and/or decisions of the institutions which decide or supervise the participation of Commissioners in the events of the Bilderberg group, and/or the mandate given by the Commission to these Commissioners for this purpose,

5. All documents relating to the travel/subsistence/registration/participation expenses of Commissioners who participated in Bilderberg Group events,

6. All correspondence exchanged in all forms (electronic, paper, sms, email, whatsapp messages, ...) between the organisation known as the "World Economic Forum (WEF)" [...] and the European Commission and in particular Commissioners who have participated in the organisation’s events.

7. All documents received, given, or written on site during the holding of the "meetings" of the World Economic Forum or in connection with the holding of events,

8. All reports, work and reports drawn up by the Commissioners, their teams or the Commission on the World Economic Forum WEF group, participation in its events and its relations with the European institutions and their staff,

9. Regulations and/or decisions of the institutions which decide or supervise the participation of Commissioners in World Economic Forum (WEF) events, and/or the mandate given by the Commission to these Commissioners for this purpose,

10. All documents relating to the travel/subsistence/registration/participation expenses of the Commissioners who participated in the World Economic Forum (WEF) events’.

In your application, you also specified that

‘[t]he period concerned by the requests for access to documents above is from the year 2018 to [the day of submission of your application]’.

Due to the wide material scope of your application, its processing was split among five different Commission services concerned, namely the Secretariat-General (this case), the Directorate-General for Economic and Financial Affairs (case EASE 2023/4614), the Directorate-General for Justice and Consumers (case EASE 2023/4615), the Directorate-General for Human Resources and Security (case EASE 2023/4616) and the Office for the Administration and Payment of Individual Entitlements (case EASE 2023/4617).
This case concerns documents requested under points 1-4 and 6-9 of your application, insofar as they relate to High Representative/Vice-President Josep Borrell Fontelles and Vice-President Margaritis Schinas, in accordance with your reply of 2 August 2023 to the Secretariat-General’s request for clarification, dated the same day.

The documents held by the Commission and identified by the Secretariat-General as falling within the scope of your application are the following:

1. Ares(2023)5425315 – AGENDA- Bilderberg meeting panel to HRVP;
2. Ares(2023)5424767 – Borrell I Panel Bilderberg Meeting 2023;
3. Ares(2023)8619623 – INVITATION to Bilderberg Meeting 2022;
4. Ares(2023)2029391 – INVITATION [02/05/2023 - 03/05/2023] to World Economic Forum Growth Summit 2023, Geneva CH:
   4.1. Cover – email.rtf,
   4.2. Annex – Growth Summit 20223_Programme_As of 17.03.2023.pdf,
   4.3. Annex – Growth Summit 2023_Meeting Overview.pdf,
5. Ares(2023)2771632 – [Re] INVITATION [02/05/2023 - 03/05/2023] to World Economic Forum Growth Summit 2023, Geneva CH.

2. **ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001**

Further to the Secretariat-General’s assessment of the documents under the relevant provisions of Regulation (EC) No 1049/2001, I am pleased to inform you that full access is granted to documents 4.2 and 4.3 and that wide partial public access is granted to the remaining documents.

Please note that granting full public access to the documents concerned is prevented by the exception to the right of public access in Article 4(1)(b) (protection of privacy and the identity of the individual) of Regulation (EC) No 1049/2001, for the reasons set out below.

2.1. **Consultation of the third parties**

According to Article 4(4) of Regulation (EC) No 1049/2001, ‘[a]s regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.’

The documents requested originate, in full or in part, from third parties. Consequently, in line with the above-mentioned provision, the Secretariat-General consulted the third-party
originators of (parts of) the documents with a view to assessing whether an exception in Article 4(1) or 4(2) of Regulation (EC) No 1049/2001 is applicable.

In their respective replies to the Commission’s consultations, the third-party originators expressed their opposition against public disclosure of certain parts of the documents, based on the exception to the right of public access in Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001. This opposition was duly taken into consideration by the Secretariat-General in its subsequent own assessment of the documents requested, as detailed below.

2.2. 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’5.

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

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5 European Commission v The Bavarian Lager judgment, paragraph 59.
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’\(^6\).

Documents 1-3, 4.1, 4.4 and 5 contain personal data, such as names, surnames, contact details, job titles and handwritten signatures, pertaining to staff of the Commission not holding senior management positions and natural persons external to the Commission.

The names\(^7\) of the persons concerned, 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\(^8\). 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.

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\(^6\) Judgment of the Court of Justice of 20 May 2003, \textit{Rechnungshof and Others v Österreichischer Rundfunk}, Joined Cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

\(^7\) \textit{European Commission v The Bavarian Lager} judgment, paragraph 68.

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 concerned, 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. **MEANS OF REDRESS**

You are entitled to submit a confirmatory application requesting the Commission to review this position, in accordance with Article 7(2) of Regulation (EC) No 1049/2001.

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 & Access to Documents’  
BERL 7/076  
B-1049 Brussels,

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

Yours sincerely,

Tatjana Verrier  
Director

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