Subject: Proposal for a fair solution pursuant to Regulation (EC) No 1049/2001 – request for access to documents EASE 2023/3409

Dear Mr Daalder,

We are writing concerning your request for access to Commission documents registered on 15/06/2023 under case number 2023/3409.

The handling of your request involves the assessment of a very large number of documents which need to be assessed individually. Many of them originate from third parties. The analysis of these documents, together with the need to consult the third parties concerned in accordance with Article 4(4) of Regulation (EC) No 1049/2001, cannot be expected to be completed within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

However, Article 6(3) of Regulation (EC) No 1049/2001 provides for a possibility to confer with an applicant informally with a view to finding a fair solution when an application relates to a very long document or concerns a very large number of documents.

In accordance with the case law of the EU Courts, such a solution can only concern the content or the number of documents requested, not the deadline for replying. This means that the scope of the request must be reduced in a way that would enable its processing within the extended deadline of 15 + 15 working days.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your application and your specific interest in the documents requested, and

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whether you could narrow down the scope of your application (i.e. the subject matter(s) and/or timeframe covered), so as to reduce it to a more manageable amount of documents.

In order to help you to narrow down your application, please note that the following categories of documents have been preliminarily identified as falling under the scope of your request:

1. For the von der Leyen Commission:
   - Minutes of the meeting between the Commissioner Timmermans and the President of Wageningen University & Research, Ms. Sjoukje Heimovaara: 1 document.

2. For the Juncker Commission:
   - Documents related to exchanges with the Commissioner Vella: 101 documents with attachments;
   - Documents related to exchanges with the Commissioner Timmermans: 27 documents with attachments;
   - Documents related to exchanges with the Commissioner Andriukaitis: 250 documents with attachments.

3. For the Barroso Commissions:
   - Documents related to exchanges with the Commissioner Oettinger: 1 document with attachments;
   - Documents related to exchanges with the Commissioner Potočnik: 5 documents with attachments;
   - Documents related to exchanges with the Commissioner Geoghegan-Quinn: 5 documents with attachments;
   - Documents related to exchanges with the President Barroso: 46 documents with attachments;
   - Documents related to exchanges with the Commissioner Borg: 2 documents.

4. For the Prodi Commission:
   - Documents related to exchanges with the Commissioner Busquin: 1 document;
   - Documents related to exchanges with the Commissioner Lamy: 1 document with attachment.

Please note that the volume of these 440 documents varies greatly - from 1-2 pages to even several dozen pages. According to the available studies\(^3\), the average reading speed of documents would amount to four minutes per page (average 238 words per minute). In the situation at hand, assuming that each document has an average of 5 pages each, only reading all documents falling under the original scope of the application (at the rate mentioned above) would take one staff member working full time on this particular case 18 working days. It needs to be emphasised that the assessment carried out under Regulation (EC) No 1049/2001 is not limited to reading of the documents but also to the analysis of their content. The relevant information that requires protection under various exceptions provided for in Article 4 of that regulation has to be filtered out and identified. The length of that process depends on the level of complexity of the documents content-wise. Second, a significant number

\(^3\) See critical overview and study by Marc Brysbaert ‘How many words do we read per minute? A review and meta-analysis of reading rate’; Journal of memory and language, 2019-12, Vol.109, p.104047.
of documents originate from third parties. Consequently, the consultation of third parties under Article 4(4) of Regulation (EC) No 1049/2001 is required for these documents. The time needed to carry out the necessary consultations needs to be added to the above-mentioned handling time. This includes preparation of the consultation letters, their internal validation workflow and delivery. Subsequently, the consulted third parties are given five working days to reply. Finally, following the assessment of the documents, which takes into account the positions of the consulted third parties, the case handler must prepare the final version of the documents, including internal consultation (for example with a policy officer competent in the subject matter), marking the text to be redacted by means of the dedicated informatics tools and preparation of the final, redacted version of the document. Then, the final reply and the whole file is put into the validation process in view of its approval.

Consequently, according to our first estimates and in addition to the indicated 18 working days needed to read the documents, the handling of your request would also take 33.5 working days, broken down as follows:

- third-party consultations under Article 4(4) of Regulation (EC) No 1049/2001: 10 working days;
- final assessment of the documents in light of the comments received: 8 working days;
- drafting of the reply: 3 working days;
- redaction of those parts of the documents to which one or several exceptions apply: 2 working days;
- internal review and approval of the draft decision: 10 working days; and
- preparation of the reply and the documents for dispatch: 0.5 working day.

In view of the above estimations – and in order to promptly process your application and without generating a disproportionate administrative burden for the Commission, we would like to propose to you to reduce the scope of your application. More specifically, we propose that the processing of your application encompass only specific meetings you are interested in or only a short timeframe. Alternatively, we propose reducing the scope of your application to the 20 most recent documents and their possible annexes.

Please reply to this proposal for a fair solution **within five working days at the latest**.

In the absence of a reply within five working days, we will restrict the scope of your application to those parts that can be dealt with within the extended deadline of 30 working days.

Yours sincerely,

María Oliván Avilés
Head of Unit