Subject: Your application for access to documents EASE 2023/3825

Dear Sir,

We refer to your request for access to European Commission documents registered on 04/07/2023 under the above-mentioned reference number.

You request access to all documents related to the preparation, tendering and subsequent implementation of Digital Building Logbook study commissioned by the European Commission.

Having analysed your request in the light of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, we have identified 12 documents numbered and listed in the annex.

Since the documents falling under the scope of your request originate from third parties, the originators of the documents have been consulted.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that documents 2, 4, 5, 7, 8, 9, 10, 11, and 12 can be fully disclosed and documents 1 and 3 may be partially disclosed.

A complete disclosure of documents 1 and 3 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initiatives and contact information of Commission staff members not pertaining to the senior management;
- the names/initiatives and contact details of other natural persons.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. 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.

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 documents 1 and 3, 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.

Following an examination of documents 6 (Technical study for the development and implementation of digital building logbooks - Inception report), 10 (Financial proposal) and 11 (Technical proposal) and taking into account the opinion of the third party, I regret to inform you that your application cannot be granted.

The disclosure is prevented by exceptions to the right of access laid down in Article 4(2), first indent of Regulation 1049/2001 which provides 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’. Disclosing this information in the public domain would affect the competitive position on the market of the originators of these documents (e.g. the contractors Ecorys, TNO and Arcadis).

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, but I have not been able to identify such an interest.

Please note that the disclosed documents include a study carried out by external experts. It does not reflect the position of the Commission and cannot be quoted as such.

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.

Please note that you may reuse the partially disclosed 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.

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,

(Electronically signed)
Kerstin Jorna

Enclosures: Document register,
Announcement webinar presentation 15 June 2022,
Technical study for the development and implementation of DBLs - Report on the scoping survey,
Key Data Sets and Functionalities,
Technical study on the development and implementation of DBLs - Report on the feedback survey by the study team,
Mapping relevant databases for the development of DBLs - Findings from the analysis of databases in three EU Member States – Estonia, France and Italy,
DBL Interim report,
DBL study progress report,
DBL study progress report final,
Technical study for the development and implementation of digital building logbooks - Tender specifications.

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

Electronically signed on 31/07/2023 10:18 (UTC+02) in accordance with Article 11 of Commission Decision (EU) 2021/2121