Subject: Your applications for access to documents - EASE 2023/6618 and EASE 2023/6619

Dear Mr Hasday,

We refer to your emails of 7 November 2023, wherein you make two requests for access to documents pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (hereinafter ‘Regulation 1049/2001’), which were registered on the same day under the reference numbers EASE 2023/6618 and EASE 2023/6619.

1. SCOPE OF YOUR APPLICATIONS

Your applications read as follows:

A. EASE 2023/6618

‘[..] All documentation (including but not limited to reports, email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to exchanges between DG CONNECT and Onepoint regarding the Digital Services Act, the European strategy for data and the European Green Deal. [..]’

B. EASE 2023/6619
All documentation (including but not limited to reports, email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to exchanges between DG CONNECT and Secure Identity Alliance ASBL (and/or its intermediary AK Public Affairs https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=978510049514-67), in 2022 and 2023, on the following issues:

Cybersecurity: NIS2/DORA/CRA  
Platforms: DSA/DMA  
Biometrics: AI Act  
Interoperability Act  
Payments: PSD3, Open Finance  
Identity: eIDAS2  
Documents: MDL  
Privacy: GDPR  
Border: EES, ETIAS, API, DTC  
Artificial Intelligence  
Digital Commons [...]’

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUESTS

We have identified the following documents as falling within the scopes of your applications:

A. EASE 2023/6618

No documents were identified as falling within the scope of the request.

B. EASE 2023/6619

- Email, AK Public Affairs, 11.10.23, Ares(2023)7173084, (‘Document 1’)  
- Back to office report, DG CONNECT, Meeting with SIA, 19.09.23, Ares(2023)7993358, (‘Document 2’)  
- Minutes, DG CONNECT, Meeting CONNECT with SIA, 25.04.23, Ares(2023)8023035, (‘Document 3’)  
- Letter – reply to AK Public Affairs, DG CONNECT, 21.11.23, Ares(2023)7913015, (‘Document 4’)  
- Email, SIA, Meeting Link, 08.09.23, Ares (2023)7993358, (‘Document 5’)

3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that partial access can be granted to Documents 1 - 4, whilst access cannot be granted to Document 5. Full and partial disclosure of the documents identified is prevented by the exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

A. Partial Access

(i) Protection of privacy and integrity of the individual
Disclosure of parts of Documents 1 - 4 is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since they contain the following personal data:

- Names, functions and contact details of Commission staff members not pertaining to the senior management

- Names and functions of other natural persons.

Article 9(1)(b) of the Data Protection Regulation (¹) 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) Regulation 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.

(ii) Protection of the decision-making process

The first subparagraph of Article 4(3) of Regulation 1049/2001 provides that ‘[a]ccess to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution shall be refused if disclosure of the document would seriously undermine the institution’s decision-making process, unless there is an overriding public interest in disclosure.’

Parts of Document 2 contain informal views and positions of the Commission services on decision-making processes for which the decision has not been taken yet. Precisely, parts of Document 2 contain informal views and positions of the Commission on The EU digital Wallet and the Open Wallet Foundation, for which the decision-making processes and relevant discussions are still ongoing. The risk of disclosing information concerning preliminary opinions of the Commission services before the adoption of the decisions in question would deter the Commission from freely expressing their views and conducting frank and internal discussions. Speculations and misinterpretations of the public on the views and reflections put forward in these ongoing decision-making processes would affect the exploration of different policy options and unduly restrict the Commission’s internal space to think, exposing the Commission to external pressure during the ongoing decision-making processes. The risk of disclosure of such preliminary opinions and reflections would therefore seriously undermine the ongoing decision-making processes. That risk is also reasonably foreseeable and not purely hypothetical.

Therefore, the abovementioned parts of Document 2 have been redacted.

C. Non-Disclosure

We regret to inform you that access to Document 5 cannot be granted as its disclosure is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since it contains names of Commission staff members not pertaining to the senior management, as well as names of other natural persons.

We have considered whether partial access could be granted to Document 5, but this is not possible. The different parts of Document 5 taken together lead to a refusal of access for the document in full as access to the remaining parts is meaningless.

4. REUSE OF DOCUMENTS

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 the Commission documents. You may reuse Documents 2, 3 and 4 originating from the Commission 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 2 and 3 were drawn up for internal use under the responsibility of the relevant services of DG CONNECT. 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.

Please note also that Document 1 originating from a third party is disclosed to you based on Regulation 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 document without the agreement of the originator, who may hold an intellectual property right on it. The European Commission does not assume any responsibility from its reuse.

5. NO DOCUMENTS HELD

We regret to inform you that DG CONNECT does not hold any documents that would correspond to the description given in your application under reference number EASE 2023/6618. The search covers the time period until the registration of your request for access to documents, 7 November 2023.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that no such documents, corresponding to the description given in your application, are held by the DG CONNECT, we are not in a position to fulfil your requests.
6. CONFIRMATORY APPLICATION

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the Commission by asking for a review via your portal ([1]) account (available only for initial requests submitted via the portal account), or via the following address:

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

Roberto Viola

Enclosures: (5)

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