



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND  
TECHNOLOGY

The Director-General

Brussels, 7 June 2024  
CNECT.R.4

Lora VERHEECKE  
9, rue du Bronze  
1070 Brussels  
Belgium

***By email:***  
[ask+request-14008-  
30099415@asktheeu.org](mailto:ask+request-14008-30099415@asktheeu.org)

**Subject: Your application for access to documents – EASE 2024/0087**

Dear Madam,

We refer to your email dated 7 January 2024 wherein you make a request for access to documents pursuant to 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 1049/2001’), registered on the same date under the abovementioned reference number. We also refer to our holding reply, dated 29 January 2024, our reference Ares(2024)639844 whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation 1049/2001.

We apologise for the delay in our response.

#### **1. SCOPE OF THE APPLICATION**

Your application reads as follows:

*“Dear Communications Networks, Content and Technology,*

*Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:*

*All documentation (including but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts and recordings) AND the meeting minutes/notes relating to the meetings between Roberto Viola and Mistral AI on 13th July 2023.[...]*

## **2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE APPLICATION**

- Back To Office (BTO) Report, Meeting with Mistral AI, 13 July 2023, (**‘Document 1’**)
- Email exchange dated 24 April and 5 May 2023 (**‘Document 2’**)
- Emails to DG CONNECT, dated 14 and 20 July 2023 (**‘Document 3’**)
- Briefing for the meeting on AI Act (**‘Document 4’**)

## **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 two documents, whilst access is denied for the remaining documents, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

### **A. Partial disclosure**

#### *(i) Protection of privacy and integrity of individuals*

Full disclosure of Documents 1 and 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 and functions of Commission staff members not pertaining to the senior management
- Names, functions and CV details of other natural persons

Article 9(1)(b) of the Data Protection Regulation <sup>(1)</sup> 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, we have concluded that, pursuant to Article 4(1)(b) Regulation 1049/2001, access cannot be granted to the personal data contained in the documents, as the need to

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<sup>(1)</sup>Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

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 commercial interests*

Article 4(2) first indent of Regulation 1049/2001 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.

This provision must be interpreted in light of Article 339 of the Treaty of the Functioning of the European Union (TFEU), which requires staff members of the EU institutions to refrain from disclosing information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Parts of Document 4 are covered by the abovementioned exception as they contain business sensitive information relating to the third parties' positions, views and activities. Disclosure of these parts could seriously affect the third parties' relations and position in the market and could undermine their commercial interests.

Therefore, access cannot be granted as disclosure is prevented by the exception to the right of access laid down in Article 4(2), first indent of Regulation 1049/2001.

*(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.' The decision-making processes must remain protected until the decision-making process is fully completed, i.e. until the decision/legislation is adopted and published.

Parts of Document 4 are covered by the abovementioned exception as they contain preliminary views, considerations, reflections of the Commission services in relation to the Artificial Intelligence Act for which the decision-making process is not finalized yet. The risk of disclosing information and reflections related to ongoing procedures, would deter the Commission services from freely expressing their views and conducting frank discussions. Speculations and misinterpretations of the public on the views and reflections put forward in an earlier stage of the process would affect the exploration of different policy options and unduly restrict the Commission's internal space to think exposing the services to external pressure. Disclosure of these parts of the document would therefore seriously undermine the ongoing decision-making process. That risk is also reasonably foreseeable and not purely hypothetical. Therefore, access to these parts of the document should be refused as their disclosure is prevented by the exception of Article 4(3) first subparagraph of Regulation 1049/2001.

**B. Non-disclosure**

We regret to inform you that access to Documents 2 and 3 cannot be granted as their disclosure is prevented by the exceptions laid down in Article 4 of Regulation 1049/2001.

Parts of these documents are covered by the abovementioned exception of Article 4(2) first indent of Regulation 1049/2001 with regard to the protection of commercial interests of a natural or legal person, including intellectual property. They originate from a third party and contain business sensitive information relating to the third party's positions, views and activities. After assessment we have come to the conclusion that a disclosure of these parts could seriously affect the third party's relations and position in the market and could undermine the commercial interests of the third party. Therefore, access cannot be granted as disclosure is prevented by the exception to the right of access laid down in Article 4(2), first indent of Regulation 1049/2001.

Moreover, parts of these documents are covered by the exception of Article 4(3) first subparagraph of Regulation 1049/2001 with regard to the protection of an ongoing decision-making process. The decision-making processes must remain protected until the decision-making process is fully completed, i.e. until the decision/legislation is adopted and published. These parts are covered by the abovementioned exception as they contain preliminary views, considerations, reflections of the Commission services and of other parties in relation to the Artificial Intelligence Act for which the decision-making process is not finalized yet. The risk of disclosing information and reflections related to ongoing procedures, would deter the Commission and its interlocutors from freely expressing their views and conducting frank discussions. Speculations and misinterpretations of the public on the views and reflections put forward in an earlier stage of the process would affect the exploration of different policy options and unduly restrict the Commission's internal space to think exposing the services to external pressure. Disclosure of these parts of the documents would therefore seriously undermine the ongoing decision-making process. That risk is also reasonably foreseeable and not purely hypothetical. Therefore, access to these parts of the documents should be refused as their disclosure is prevented by the exception of Article 4(3) first subparagraph of Regulation 1049/2001.

Moreover, parts of these documents contain personal data, in particular the contact details of Commission staff members and names and contact details of other natural persons, thus their disclosure is prevented by the exception of Article 4(1)(b) of Regulation 1049/2001 for the reasons set out in Section 3A(i).

We have considered whether partial access could be granted to these documents. However, partial access is not possible considering that these documents are covered in their entirety by the abovementioned exceptions of Article 4 of Regulation 1049/2001.

#### **4. OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

The exceptions laid down in Article 4(2) and Article 4(3) of Regulation 1049/2001 apply, unless there is an overriding public interest in the disclosure of documents. Such an interest must, firstly, be a public interest and, secondly, outweigh the harm caused by disclosure. We have examined whether there could be an overriding public interest in the disclosure of the parts of the documents which are being withheld but we have not been able to identify such an interest.

#### **5. 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 the disclosed documents 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 these documents were drawn up for internal use under the responsibility of the relevant service of DG CONNECT. They solely reflect the services' interpretation of the interventions made and does 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.

## 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. You can submit it in one of the following ways:

**by asking for a review via your portal <sup>(2)</sup> 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](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Electronically signed

Roberto Viola

Enclosures: (2)

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<sup>(2)</sup><https://www.ec.europa.eu/transparency/documents-request>