Subject: Your application for access to documents (2024/0703)

Dear Mr. Teffer,

We refer to your request for access to European Commission documents registered on 05/02/2024 under the above-mentioned reference number.

You request access to:

- All communication between the European Commission and the Netherlands regarding audits of EMFF and/or EMFAF since 15 February 2023;
- Any internal Commission communications on, and/or assessment of, the follow-up actions taken by the Netherlands in response to audit reports, since 15 February 2023.

The following documents fall within the scope of your application:

- Announcement letter EMFF compliance audit, DG MARE, Ministerie van Financiën, 24/05/2023, {Ref.Ares(2023)3599789} (hereafter ‘document 1’);
- Draft audit report NL compliance 2023, DG MARE, Ministerie van Financiën, 19/12/2023, {Ref.Ares(2023)8709460}, (hereafter ‘document 2’);

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the following conclusions:

Document 1 may be partially disclosed. Some parts of the identified document have been blanked out as their disclosure 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/initialed and contact information of Commission staff members not pertaining to the senior management;
- the names/initialed and contact details of other natural persons;
- other information relating to an identified or identifiable natural person.

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) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the document 1, 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.

Please find enclosed a redacted version of document 1.

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 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.

Concerning documents 2 and 3, I regret to inform you that your application cannot be granted, as their disclosure is prevented by exception to the right of access laid down in Article 4(2) third indent of this Regulation.

The documents which you seek to obtain relate to an audit for which the contradictory procedure has not been finalised.

Disclosure of the documents requested would undermine the protection of the purpose of the ongoing audit, as it would put in the public domain preliminary findings which have not yet been confirmed and which may be rebutted by the persons/entities being audited; disclosure at this point in time would unduly interfere with the contradictory procedure and may undermine the rights of the persons/entities concerned. Therefore, the exception laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001 applies to these documents.

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. We have examined whether there could be an overriding public interest in disclosure, but we have been unable to identify such an interest.

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

by mail, to:
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,

Charlina Vitcheva
Director-General