Subject: Your application for access to documents – EASE 2024/1784

Dear Ms. Barthe,

We refer to your request for access to European Commission documents registered on 2 April 2024 under the above-mentioned reference number.

You request access to “All documentation, including, but not limited to, attendance lists, agendas, background papers, minutes/notes and email correspondence about or summarising the following meetings between:

1) Daimler Truck, Hydrogen Europe, Toyota Motor Europe, Hy24, Arcturus Group, Air Liquide, Stellantis, BMW Group and Pablo Fabregas Martinez, Cabinet member of Adina Vălean, on 8/12/2023 on “AFIR regulation”;

2) Mercedes-Benz Group and Walter Goetz, Cabinet member of Adina Vălean, on 2/2/2022 on “Fitfor55 and automotive industry”;

3) Volkswagen AG and Director-General Magdalena Kopczynska, on 14/02/2024 on “Future of transportation and mobility - Charging infrastructure in the EU”;

4) Verband der Automobilindustrie (VDA) and Director-General Magdalena Kopczynska, on 24/01/2024 on “State of the automotive industry - European competitiveness and industry location - Charging infrastructure – next steps AFIR - Access to vehicle data, functions and resources”;

5) A.P. Moller Maersk A/S (APMM) and Director-General Magdalena Kopczynska, on 30/01/2024 on “General overview of C2X’s projects - Maersk-C2X approach to green
shipping corridors - Proposals to the Commission to decarbonise shipping in the next mandate”;

6) Toyota and Filip Alexandru Negreanu Arboreanu Cabinet members of Adina-Ioana Valean, on 2/5/2024 on “Automotive industry”;

7) Association des Constructeurs Européens d'Automobiles (ACEA) and Filip Alexandru Negreanu Arboreanu Cabinet members of Adina-Ioana Valean, on 9/2/2024 on “Access to vehicle data”;

8) A.P. Moller Maersk A/S (APMM) and Roxana Lesovici Cabinet members of Adina-Ioana Valean, on 31/01/2024 on “Competitiveness of green fuel projects”;

9) European Community Shipowners Association and Roxana Lesovici Cabinet members of Adina-Ioana Valean, on 30/01/2024 on “maritime transport policies”.

We consider your request to cover documents held up to the date of your initial application, i.e., 26 March 2024.

We have identified the following documents as falling within the scope of your application:

Concerning the meeting held between “Mercedes-Benz Group and Walter Goetz, Cabinet member of Adina Vălean, on 2/2/2022 on “Fitfor55 and automotive industry”:

- Annex 1: Email exchange between representatives of Daimler and members of the Cabinet Vălean regarding a request for a meeting, dated between 19 and 21 January 2022, registered under Ares(2024)2664356;

Concerning the meeting held between “Daimler Truck, Hydrogen Europe, Toyota Motor Europe, Hy24, Arcturus Group, Air Liquide, Stellantis, BMW Group and Pablo Fabregas Martinez, Cabinet member of Adina Vălean, on 8/12/2023 on “AFIR regulation”:

- Annex 2: Email exchange between representatives of the Arcturus Group and members of the Cabinet Vălean with the subject ‘AFIR: joint request from vehicle manufacturers, energy companies & investment funds’, dated between 22 August and 6 December 2023, registered under Ares(2024)2603435, containing the following attachment:
  
  o Annex 2_1: Presentation on enabling CO₂ standards, dated October 2023, registered under Ares(2024)2603435;

Concerning the meeting held between “Verband der Automobilindustrie (VDA) and Director-General Magdalena Kopczynska, on 24/01/2024 on “State of the automotive industry - European competitiveness and industry location - Charging infrastructure – next steps AFIR - Access to vehicle data, functions and resources”:

- Annex 3: Email from a representative of VDA to the Director-General of Mobility and Transport (DG MOVE) with a request for a meeting, dated 7 December 2023, registered under Ares(2024)3887574;
Annex 4: Briefing for the meeting between a representative of VDA and the Director-General of DG MOVE held on 24 January 2024, registered under Ares(2024)3887574;

Annex 5: Minutes of the meeting between a representative of VDA and the Director-General of DG MOVE held on 24 January 2024, registered under Ares(2024)3887574;

Concerning the meeting held between “Association des Constructeurs Européens d'Automobiles (ACEA) and Filip Alexandru Negreanu Arboreanu Cabinet members of Adina-Ioana Vălean, on 9/2/2024 on “Access to vehicle data”:

Annex 6: Email exchange between representatives of FIA and members of the Cabinet Vălean with the subject ‘Urgent Appeal for Legislative Action on Access to Vehicle Data’ dated between 14 December 2023 and 22 January 2024, registered under Ares(2024)2630084;

Annex 7: Minutes of the meeting between a representative of FIA and members of the Cabinet Vălean held on 9 February 2024, registered under Ares(2024)2696485;

Concerning the meeting with A.P. Moller Maersk A/S (APMM) and Director-General Magdalena Kopczynska, on 30/01/2024 on “General overview of C2X’s projects - Maersk-C2X approach to green shipping corridors - Proposals to the Commission to decarbonise shipping in the next mandate”:

Annex 8: Email from a representative of Maersk to the Director-General of DG MOVE with the subject ‘Meeting to discuss the competitiveness of green fuel projects’, dated 20 December 2023, registered under Ares(2024)3886889;

Annex 9: Briefing for the meeting between representatives of Maersk and the Director-General of DG MOVE hold on 31 January 2024, registered under Ares(2024)3886889;

Annex 10: Report of the meeting between representatives of Maersk and the Director-General of DG MOVE hold on 31 January 2024, registered under Ares(2024)3886889;

Concerning the meeting held between “A.P. Moller Maersk A/S (APMM) and Roxana Lesovici Cabinet members of Adina-Ioana Vălean, on 31/01/2024 on “Competitiveness of green fuel projects”:

Annex 11 Email exchange between representatives of Maersk and members of Cabinet Vălean with the subject ‘Meeting to discuss the competitiveness of green fuel projects’, dated between 20 December 2023 and 26 January 2024, registered under Ares(2024)2631092;

Annex 12 Minutes of the meeting between representatives of Maersk and members of the Cabinet Vălean, held on 31 January 2024, registered under Ares(2024)2740680;
Concerning the meeting held between “Volkswagen AG and Director-General Magdalena Kopczynska, on 14/02/2024 on “Future of transportation and mobility - Charging infrastructure in the EU”:  

- **Annex 13**: Email exchange between representatives of Volkswagen and DG MOVE officials, with a request for a meeting, dated between 17 and 19 January 2024, registered under Ares(2024)3887950;  

- **Annex 14**: Briefing for the meeting between representatives of Volkswagen and officials of DG MOVE held on 14 February 2024, registered under Ares(2024)3887950;  

**Annex 15**: Minutes of the meeting between representatives of Volkswagen and officials of DG MOVE held on 14 February 2024, registered under Ares(2024)3887950;  

Concerning the meeting held between “European Community Shipowners Association and Roxana Lesovici Cabinet members of Adina-Ioana Vălean, on 30/01/2024 on “maritime transport policies”:  

- **Annex 16**: Email exchange between representatives of ECSA and members of the Cabinet Vălean with the subject ‘CONFIRMATION | ECSA New Year's Reception | 23 January 2024 | 17:30 CET’ dated between 14 December 2023 and 30 January 2024, registered under Ares(2024)2630846;  

- **Annex 17**: Minutes of the meeting between representatives of ECSA and a members of Cabinet Vălean held on 30 January 2024, registered under Ares(2024)2740545.  

Concerning the meeting between “Toyota and Filip Alexandru Negreanu Arboreanu Cabinet members of Adina-Ioana Vălean, on 2/5/2024 on “Automotive industry”, we did not identify any documents falling within the temporal scope of your application.

Having examined the documents requested, we have come to the conclusion that they may be partially disclosed. First, a complete disclosure of **Annexes 9 and 10** is prevented by the exception to the right of access laid down in Article 4(1)(a), third indent of Regulation (EC) No 1049/2001 regarding public access to documents (1).  

Article 4(1)(a), third indent of this Regulation sets out that “The institutions shall refuse access to a document where disclosure would undermine the protection of (...) the public interest as regards (...) international relations”.  

Some redacted parts of these documents have been identified as containing sensitive information which, if disclosed, could seriously undermine the protection of the public interest as regards international relations. Indeed, given the fact that the disclosure of the documents takes place *erga omnes*, the release of certain parts of these documents to the public could be detrimental to the international relations between the European Union and certain third countries, or between the European Union and certain international

---

organisations. There is a clear and foreseeable risk that the disclosure of such information, given its sensitivity, could bring harmful consequences to the climate of mutual trust between the authorities of those States and international organisations and the European Union. The disclosure of certain parts of these documents could also have negative repercussions for ongoing negotiations between the European Union and its Member States and certain third countries and international organisations, as they could limit the possibilities to come to final agreements that preserve the EU interest.

Therefore, the exception laid down in Article 4(1)(a), third indent of Regulation (EC) No 1049/2001 applies to some redacted parts of these documents.

Second, a complete disclosure of Annexes 9, 10, 12 and 15 is also prevented by the exception to the right of access laid down in Article 4(2), first indent of Regulation (EC) No 1049/2001.

Article 4(2), first indent of this Regulation sets out 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”.

Some redacted parts of these documents have been identified as containing commercially sensitive information of the organisations concerned. Indeed, these documents contain information on business plans, secrets or strategies of these organisations which, if made public, could undermine the achievement of their commercial purposes and objectives. In addition, some parts of these documents contain certain positions or views manifested by these organisations bilaterally to the Commission which are not meant to be made public, as their disclosure would be harmful for their commercial interests, business relationships and strategies. Finally, the disclosure of some other parts of these documents would also affect the competitive position of these organisations in the market.

Therefore, the exception laid down in Article 4(2), first indent of Regulation (EC) No 1049/2001 applies to some redacted parts of these documents.

Third, a complete disclosure of Annexes 9 and 10 is also prevented by the exception to the right of access laid down in Article 4(3), first subparagraph of Regulation (EC) No 1049/2001

Article 4(3), first subparagraph of this Regulation provides that “Access 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”.

Some redacted parts of these documents have been identified as containing sensitive information which, if disclosed, could seriously undermine, in a foreseeable and non-hypothetical way, the internal decision-making process of the European Commission as regards the allocation of funds for the development of green shipping corridors under the Neighbourhood, Development and International Cooperation Instrument (NDICI), as they would reveal preliminary views and policy options which are currently under consideration. Furthermore, given the different approaches among Member States to the topic of green shipping corridors, the disclosure of the documents at this point in time would affect the climate of mutual trust between the European Commission and the Member States within
the NDICI Committee, where Member States discuss and endorse the proposals put forward by the European Commission.

Therefore, the exception laid down in Article 4(3), first subparagraph of Regulation (EC) No 1049/2001 also applies to this document.

In addition, a complete disclosure of Annex 17 is prevented by the exception to the right of access laid down in the third indent of Article 4(2) of this Regulation.

Article 4(2), third indent of Regulation (EC) 1049/2001 establishes that “The institutions shall refuse access to a document where disclosure would undermine the protection of (...) the purpose of inspections, investigations and audits, unless there is an overriding public interest in disclosure”.

A redacted part of this document relates to an ongoing investigation regarding a possible infringement of EU law, which cannot be disclosed at the moment. As the law stands, the Court of Justice of the European Union has recognised that documents concerning an infringement procedure during its pre-litigation stage enjoy a general presumption of confidentiality, for as long as the procedure is ongoing (2). Indeed, the disclosure of the concerned part of this document at this moment in time would undermine the protection of the purpose of the ongoing investigation and affect the climate of mutual trust between the authorities of the Member State in question and the Commission, which is required to enable them to resolve the case without having to refer it to the Court of Justice.

Therefore, the exception laid down in Article 4(2), third indent of Regulation (EC) No 1049/2001 applies to a redacted part of this document.

The exceptions laid down in Articles 4(2) and (3) 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 the disclosure of the concerned parts of the abovementioned documents. However, we have not been able to identify in this case any other public interest capable of overriding the public interests protected by Article 4(2) and (3) of Regulation (EC) No 1049/2001.

Finally, as regards all documents listed above, their complete disclosure is also 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/initials and contact information of Commission staff members not pertaining to the senior management;
— the names/initials and contact details of other natural persons;
— other information relating to identified or identifiable natural persons, in particular pictures and references to their functions, to the extent that these would enable their identification.

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of

the individual, in particular in accordance with European Union legislation regarding the protection of personal data.

The applicable legislation in this field is 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 (3) (hereinafter ‘Regulation (EU) 2018/1725’, or ‘Data Protection Regulation’).

In particular, Article 3(1) of Regulation (EU) 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data (4).

In its judgment in Case C-28/08 P (Bavarian Lager) (5), the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable (6).

In your application, you indicate that your address is in the United Kingdom. Transfers of personal data from the Commission to countries that are not members of the European Economic Area (EEA), or to international organisations are regulated under Chapter V of the Data Protection Regulation.

According to Article 47(1) of this Regulation, a transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that country, or the international organisation in question ensures an adequate level of protection and where the personal data are transferred solely to allow tasks within the competence of the controller to be carried out.

Based on the information available, the country of your residence is recognised by the Commission as ensuring an adequate level of protection. However, we would further like to inform you that according to Article 9(1)(b) of the Data Protection Regulation, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if “[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be

---


(6) Whereas this judgment specifically related to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, the principles set out therein are also applicable under the new data protection regime established by Regulation (EU) 2018/1725.
prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests”.

Only if these conditions are fulfilled and the processing constitutes lawful handling, in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of the Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in that case that the European Commission has to examine whether there is a reason to assume that the legitimate interests of the data subject might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

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. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subjects’ legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in these documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

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 these 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 the disclosure of their personal data.

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 also note that the disclosed reports, minutes and briefings of meetings were drawn up for internal use under the responsibility of the relevant services of the Directorate-General for Mobility and Transport. They solely reflect the authors’ interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer. They also do not reflect the position of the Commission, and cannot be quoted as such. Please also note that the mere existence of briefings or similar documents does not imply that their content was necessarily used during the (preparation of) the meeting or event for which they were drafted.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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
Unit C.1. ‘Transparency, Document Management and Access to Documents’
BERL 7/076
B-1049 Brussels,

or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

Magda KOPCZYŃSKA

Enclosure: 18 Annexes