Subject: Your application for access to documents – EASE 2024/1788

Dear Madam,

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. Brussels Airlines SA/NV and Director-General Magdalena Kopczynska, on 1/3/2024 on “Decarbonisation - SAF production - RLCF Alliance”

2. Wizz Air Group and Director-General Magdalena Kopczynska, on 31/10/2023 on “1) Sustainable Aviation 2) Regulatory Framework”

3. Airports Council International (ACI Europe) and Director-General Magdalena Kopczynska, on 24/01/2024 on “European aviation market - Schengen EES - aviation decarbonization - Single market issues”

4. Airlines for America and Director-General Magdalena Kopczynska, on 9/1/2024 on “EU-US aviation relationship”

5. Airlines for America (A4A) and Director-General Magdalena Kopczynska, on 11/10/2023 on “Presentation of the organisation and market outlook - Noise Reduction at EU Airports - SAF developments US and EU”
6. Airlines for Europe (A4E) and Director-General Magdalena Kopczynska, on 12/10/2023 on “Introductory meeting and presentation of A4E’s priority areas, in particular decarbonisation and SAF, Single European Sky, regulatory environment (airports, connectivity, passenger rights).”

7. Boeing and Rachet Smit cabinet members of Adina-Ioana Valean, on 7/2/2024 on “Presentation of Boeing Ecodemonstrator project; clean aviation”

8. TUI AG and Rachet Smit cabinet members of Adina-Ioana Valean, on 14/03/2024 on “Role of the travel and tourism sectors in the policy agenda of the next Commission”

9. Airlines for America (A4A) and Rachet Smit cabinet members of Adina-Ioana Valean, on 20/01/2024 on “EU aviation policy - EU-US aviation relations - future challenges”

10. International Airlines Group and Rachet Smit cabinet members of Adina-Ioana Valean, on 23/01/2024 on “Exchange on aviation policy & IAG group latest development”.

Regarding the meeting “between Boeing and Rachet Smit cabinet members of Adina-Ioana Valean, on 7/2/2024”, we understand that you actually refer to the meeting held on 7 March 2024.

Regarding the meeting “between Airlines for America (A4A) and Rachet Smit cabinet members of Adina-Ioana Valean, on 20/01/2024”, we understand that you actually refer to the meeting held on 30 January 2024.

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

Concerning the meeting held “between Brussels Airlines SA/NV and Director-General Magdalena Kopczynska, on 1/3/2024”:

- Annex 1: E-mail exchange between Brussels Airlines, Lufthansa Group and the Commission services, dated between 8 August 2023 and 8 February 2024, which includes the following Annex 2, with the reference Ares(2024)3079313;

- Annex 2: Letter from Brussels Airlines and Lufthansa Group to Magda Kopczynska, Director-General for Mobility and Transport (DG MOVE), dated 8 August 2023, with the reference Ares(2024)3079313;

- Annex 3: Briefing for the meeting to be held between Brussels Airlines, Lufthansa Group and Magda Kopczynska, Director-General of DG MOVE, on 1 March 2024, with the reference Ares(2024)3431979;

- Annex 4: Minutes of the meeting held between Brussels Airlines, Lufthansa Group and Magda Kopczynska, Director-General of DG MOVE, on 1 March 2024, with the reference Ares(2024)3431979;

Concerning the meeting held “between Wizz Air Group and Director-General Magdalena Kopczynska, on 31/10/2023”: 2
- **Annex 5**: E-mail exchange between Wizz Air Group and the Commission services, dated between 23 August 2023 and 13 September 2023, which includes the following Annex 6, with the reference Ares(2024)3079893;

- **Annex 6**: Letter from Wizz Air Group to Magda Kopczynska, Director-General of DG MOVE, dated 23 August 2023, with the reference Ares(2024)5854523;

- **Annex 7**: Briefing for the meeting to be held between Wizz Air Group and Magda Kopczynska, Director-General of DG MOVE, on 31 October 2023, with the reference Ares(2024)3431979;

- **Annex 8**: Minutes of the meeting held between Wizz Air Group and Magda Kopczynska, Director-General of DG MOVE, on 31 October 2023, with the reference Ares(2024)3079941;

Concerning the meeting held “between Airports Council International (ACI Europe) and Director-General Magdalena Kopczynska, on 24/01/2024”:

- **Annex 9**: E-mail exchange between ACI EUROPE and the Commission services, dated between 8 January 2024 and 17 January 2024, with the reference Ares(2024)3079537;

- **Annex 10**: Briefing for the meeting to be held between Airports Council International (ACI Europe) and Director-General Magdalena Kopczynska on 24 January 2024, with the reference Ares(2024)3431979;

Concerning the meeting held “between Airlines for America and Director-General Magdalena Kopczynska, on 9/1/2024”:

- **Annex 11**: Briefing for the event to be held between Airlines for America and Magda Kopczynska, Director-General of DG MOVE, on 9 January 2024, with the reference Ares(2024)3431979;

Concerning the meeting held “between Airlines for America (A4A) and Director-General Magdalena Kopczynska, on 11/10/2023”:

- **Annex 12**: E-mail exchange between Pentagon and the Commission services, dated between 31 August 2023 and 14 September 2023, with the reference Ares(2024)3079705;

- **Annex 13**: Briefing for the meeting to be held between Airlines for America and Magda Kopczynska, Director-General of DG MOVE, on 11 October 2023, with the reference Ares(2024)3431979;

- **Annex 14**: Minutes of the meeting held between Airlines for America and Magda Kopczynska, Director-General of DG MOVE, on 11 October 2023, with the reference Ares(2023)6910977;

Concerning the meeting held “between Airlines for Europe (A4E) and Director-General Magdalena Kopczynska, on 12/10/2023”:

- **Annex 15**: E-mail exchange between Airlines for Europe and the Commission services, dated between 22 August 2023 and 23 August 2023, with the reference
- **Annex 16**: Briefing for the meeting to be held between Airlines for Europe and Magda Kopczynska, Director-General of DG MOVE, on 12 October 2023, with the reference Ares(2024)3431979;

- **Annex 17**: Minutes of the meeting held between Airlines for Europe and Magda Kopczynska, Director-General of DG MOVE, on 12 October 2023, with the reference Ares(2023)6966699;

Concerning the meeting held “between TUI AG and Rachet Smit cabinet members of Adina-Ioana Valean, on 14/03/2024”:

- **Annex 18**: E-mail exchange between TUI Group and members of the Cabinet of the Commissioner for Transport Adina Vălean dated between 21 February 2024 and 11 March 2024, which includes the following Annex 19, with the reference Ares(2024)3171976;

- **Annex 19**: Manifesto from TUI Group, “Prosperity and Sustainability - Our vision for a stronger European tourism sector”, with the reference Ares(2024)2045101;

- **Annex 20**: Minutes of the meeting held between TUI Group and members of the Cabinet of the Commissioner for Transport Adina Vălean on 14 March 2024, with the reference Ares(2024)2044984;

Concerning the meeting held “between Airlines for America (A4A) and Rachet Smit cabinet members of Adina-Ioana Valean, on 20/01/2024” (30/01/2024):

- **Annex 21**: E-mail exchange between Pentagroup and members of the Cabinet of the Commissioner for Transport Adina Vălean dated 12 January 2024, with the reference Ares(2024)3171976;

- **Annex 22**: Minutes of the meeting held between Airlines for America and the Cabinet of the Commissioner for Transport Adina Vălean on 30 January 2024, with the reference Ares(2024)1964109;

Concerning the meeting held “between International Airlines Group and Rachet Smit cabinet members of Adina-Ioana Valean, on 23/01/2024”:

- **Annex 23**: E-mail exchange between IAG and members of the Cabinet of the Commissioner for Transport Adina Vălean dated between 10 January 2024 and 12 January 2024, with the reference Ares(2024)3171976;

- **Annex 24**: Minutes of the meeting held between IAG and the Cabinet of the Commissioner for Transport Adina Vălean on 23 January 2024, with the reference Ares(2024)1964313;

Concerning the meeting held “between Boeing and Rachet Smit cabinet members of Adina-Ioana Valean, on 7/2/2024” (7/03/2024):
- **Annex 25:** E-mail exchange between Boeing and the Commission services between 12 February 2024 and 16 February 2024, with the reference Ares(2024)3171976;

- **Annex 26:** A Document on the “Boeing ecoDemonstrator Program”, sent by Boeing ahead of the meeting, with the reference Ares(2024)1856100;

- **Annex 27:** Minutes of the meeting held between Boeing and the Cabinet of the Commissioner for Transport Adina Vălean on 7 March 2024, with the reference Ares(2024)1961814.

As regards **Annexes 25, 26 and 27**, we regret to inform you that their disclosure is 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”.

Since these documents either originate from a third party, or express the positions of a third-party, that same third-party has been consulted on their respective disclosure. Following an examination of those documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents¹, and taking into account the opinion of the concerned third-party, we regret to inform you that your application cannot be granted as regards those three documents.

Indeed, these documents contain commercially sensitive business information of the third-party in question. The latter has specifically objected to the disclosure of these documents, having motivated its position by arguing that they contain information on its confidential future commercial strategy, and that their disclosure would undermine the protection of its commercial interests.

We have considered whether partial access could be granted to the three documents concerned. However, given the nature and structure of these documents, and the fact that the third-party consulted objected to their disclosure in their entirety, partial access would have similar effects as the complete access. We have therefore concluded that it is not possible to grant partial access to the requested 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 have not been able to identify any such interest.

As regards all the other documents listed above, we have come to the conclusion that they may be partially disclosed. Firstly, a complete disclosure of these documents 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 (¹), because they contain the following personal data:

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— 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;
— handwritten signatures/abbreviated signatures of 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 (2) (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 (3).

In its judgment in Case C-28/08 P (Bavarian Lager) (4), 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 (5).

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


(5) 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.
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 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 to you for a specific purpose in the public interest. It is only in that case 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 subject’s 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 the 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 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 the disclosure of their personal data.

As regards Annexes 3, 7, 8, 11, 13 and 14, some parts of these documents have also been redacted because their disclosure is 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”.

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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, data, 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 were 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 positions 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.

Concerning Annexes 3, 7, 11, 13, 16 some parts of these documents have also been redacted given the fact that their disclosure 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.

Article 4(1)(a), third indent of the Regulation establishes that “The institutions shall refuse access to a document where disclosure would undermine the protection of: (a) 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, such as the United States of America, or between the European Union and certain international organisations.

There is a potential risk that the disclosure of such information, given its sensitivity, could potentially undermine the Union positions and relations with the third countries and international organisations concerned. 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 Union interest.

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

Concerning Annexes 11, 13, 16, some parts of these documents have also been redacted due to the fact that their disclosure is prevented by the exceptions to the right of access laid down in the second and third indents of Article 4(2) of Regulation (EC) No 1049/2001.

Article 4(2), second and third indents of Regulation (EC) No 1049/2001 establish that “The institutions shall refuse access to a document where disclosure would undermine the protection of (…) - court proceedings and legal advice, - the purpose of inspections, investigations and audits, unless there is an overriding public interest in disclosure”.

The redacted parts of these documents refer to a measure which is being contested in front of the Dutch Supreme Court, which is due to issue a decision in the second quarter
The disclosure of the relevant parts of these documents at this moment in time could undermine the integrity and purpose of the ongoing national proceedings, which must ensure an independent examination of the matter, in compliance with the principles of sound administration of justice. It is to be noted, in that regard, that the exception in question does not make any distinction between national judicial proceedings or proceedings of the Courts of the European Union, as the need to ensure the proper conduct of the judicial proceedings and, where appropriate, prevent third parties not involved in the judicial proceedings from having any direct or indirect influence on an open procedure is applicable in both cases.

Further, the redacted parts of these documents form part of the administrative file of an ongoing review, engaged by the Commission services under Article 8(3) of Regulation (EU) No 598/2014 (6), following a formal notification submitted by the Dutch authorities, under Article 8(1) of the same regulation, of their intention to introduce noise-related operating restrictions at Schiphol airport. In that regard, it is to be noted that the exception foreseen in Article 4(2) of Regulation (EC) No 1049/2001 also applies to investigations that are carried out by the services of the Commission under Article 8(3) of Regulation (EC) No 598/2014, meant to ensure that the process for the introduction of operating restrictions and the measures envisaged by the Member State concerned are compatible with the requirements laid down in that regulation.

Therefore, the exceptions laid down in Article 4(2), second and third indents of Regulation (EC) No 1049/2001 also apply to the redacted parts of these documents.

Concerning Annex 16, some parts of this document have also been redacted as their disclosure is prevented by the exception to the right of access laid down in the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001.

Article 4(3), second subparagraph of Regulation (EC) No 1049/2001 sets out that “Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure”.

Indeed, the disclosure of certain redacted parts of the document at this moment in time would seriously jeopardise the decision-making process of the Commission even after the adoption of the relevant decision, as they contain preliminary views and opinions for internal use as part of consultations within the Commission. It is to be noted that the possibility of expressing views independently within the institution is necessary to encourage internal discussions with a view to improving the functioning of the Commission, as well as to contribute to the smooth running of its decision-making process7.


Finally, concerning Annexes 10 and 13, some parts of these documents have also been redacted as their disclosure is prevented by the exception to the right of access laid down in the first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001.

Article 4(3), first subparagraph of this Regulation sets out 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”.

Indeed, certain redacted parts of these documents reveal relevant information in relation to decisions that are yet to be adopted by the Commission on the European Union Entry/Exit System (EES). Taking into account the sensitivity of the issue, the disclosure of these parts would concretely and effectively bring serious harm to the decision-making process of the Commission, in a foreseeable and non-hypothetical way.

In addition, part of the redacted information is linked to a possible revision of Directive 2009/12/EC on airport charges (8). A possible proposal will be determined in time and content by the next College. The decision-making process of the Commission which may lead to the adoption of a proposal for the revision of this Directive is sensitive, given that the stakeholders affected by the proposal have largely opposing interests, which need to be appropriately assessed and weighed in the course of policy-making; indeed, there is in this case a clear risk for targeted external pressure which goes beyond the expression of public interest that is to be expected for any legislative proposal (9). The Commission is continuously reflecting with stakeholders on how to improve the relevant legislative framework, but the relevant aspects of the future proposal are still under consideration. The disclosure of the information contained, at this moment in time, would therefore be liable to undermine the ongoing decision-making process. It is to be noted, in that regard, that the Union institutions must be free to explore all possible options in preparation of their decisions free from external pressure.

Finally, the disclosure of certain redacted parts of these documents would undermine, also in a foreseeable and non-hypothetical manner, the decision-making process of the Commission as regards international agreements which are currently under negotiation. Indeed, the disclosure of certain parts of these documents would limit the possibilities to come to final agreements that preserve the Union interest, and hence jeopardise the decision-making processes leading to such agreements.

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

As mentioned above, the exceptions laid down in Article 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 also examined whether there could be an overriding public interest in disclosure of the redacted parts of these 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.

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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 accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to submit a confirmatory application requesting the Commission to review this position.

Such a 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:

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: 24 Annexes