Subject: Your application for public access to documents – EASE 2024/2019

Dear Mr Walsh,

I refer to your application dated 11 April 2024, registered on 15 April 2024 under the above mentioned EASE reference number, in which you make a request for public access to documents under Regulation (EC) No 1049/20011 (‘Regulation 1049/2001’).

1. SCOPE OF YOUR REQUEST

You have been requesting public access to the following documents:

‘All documentation (including, but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to the meeting listed below:

[...] Between the Confederation of Norwegian Enterprise and Executive Vice-President Valdis Dombrovskis on 16th of February 2024 [...]’

We have identified two documents falling within the scope of your request:

01 – Ares(2023)1224824 – Minutes from roundtable on Critical Raw Materials package 16-02-2023;

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For details and numbering also kindly refer to the enclosed Annex ‘List of identified documents and type of disclosure’.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

Having examined the requested documents under the applicable legal framework, I am pleased to inform you that full public access is granted to document 02, and that partial access is granted to document 01, with only personal data redacted.

A complete disclosure of document 01 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation 1049/2001 (for details please see below). Copies of the accessible documents (for document 01 in its redacted version) are enclosed to the present letter.

2.1. Protection of privacy and the integrity of the individual – Article 4(1)(b) of Regulation 1049/2001

2.1.1. ‘Personal data’

We disclose the identified document 01 only partially, as it contains certain personal data, which must be redacted in accordance with Article 4(1)(b) of Regulation 1049/2001, namely:

– the names initials of Commission staff members not pertaining to the senior management.

Article 4(1)(b) of Regulation 1049/2001 provides that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data’.

The applicable legislation in this field is Regulation (EU) No 2018/1725 (hereafter ‘Regulation 2018/1725’ or ‘Data Protection Regulation’).

Article 3(1) of Regulation 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. Please note in this respect that the names, signatures, functions, email addresses, telephone numbers etc., and/or initials pertaining to staff members of an institution are to be considered personal data, as well

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as those of individuals belonging to third parties. As already indicated above, document 01 contains such personal information.

2.1.2. Question of ‘transfer’ of personal data and conclusion

In your application, you indicate that your address is in the United Kingdom. In this regard, please note that 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 Regulation 2018/1725.

According to Article 47(1) of Regulation 2018/1725, 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 Article 9(1)(b) of the Data Protection Regulation 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 express particular interest to have access to these personal data. However, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to the personal data, 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.

2.2. Disclaimers

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf, based on Commission Decision 2011/833/EU of 12 December 2011 on the re-use of Commission documents. You may reuse the documents disclosed free of charge 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 any liability stemming from the reuse.

Furthermore, document 01 was drawn up under the responsibility of the relevant Commission official. It solely reflects the author's interpretation of the interventions made and does not set out any official position of any third party to which the document

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may refer, which was/were not consulted on its content. Such type of Commission
document does not necessarily reflect the position of the Commission and, therefore, cannot
be quoted as such. Similarly, document 02 can also not be seen as necessarily being
reflecting the Commission position, because, as you may be aware, in the occasion and
context of this document and the related event it is ultimately the spoken word that counts
(which may differ in the detail from the prepared draft text of speaking points and key
messages).

3. POSSIBILITY OF A 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 a confirmatory application should be addressed within 15 working days upon
receipt of this letter to the Secretariat-General of the Commission, either by

- **asking for a review via your portal** account (available only for initial requests
  submitted via the portal account), or

- **email** to sg-acc-doc@ec.europa.eu, or

- **letter post** to the following address:
  European Commission
  Secretariat-General
  ‘Transparency, Document Management & Access to Documents’ (unit SG C.1)
  BERL 7/76
  Rue de la Loi 200/Wetstraat 200
  1049 Brussels
  BELGIUM.

Yours sincerely,

[Electronically signed]

Maud LABAT
Head of Unit

Enclosures (3): List of documents,
2 documents (thereof 1 partially redacted).

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6 https://www.ec.europa.eu/transparency/documents-request