



**EUROPEAN COMMISSION**

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

Brussels, **02 MAI 2017**  
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*By registered letter with  
acknowledgment of receipt*

Mr Bram Vranken  
Vredesactie  
Patriottenstraat 27,  
2600 Berchem

**Subject: Your application for access to documents – Ref GestDem No 2017/0904**

Dear Mr Vranken,

We refer to e-mail dated 07.02.2017 in which you make a request for access to documents, registered on 14.02.2017 under the above mentioned reference number.

You request access to:

- a list of meetings of DG Growth (former DG Enterprise and Industry) officials and/or representatives (including the Commissioner and the Cabinet) and representatives of individual companies, including lobby consultancies and law firms, and/or industry associations, in which the upcoming Preparatory Action (PA) on Defence Research and the European Defence Research Programme (EDRP) were dealt with (since 2012);
- minutes and other reports of these meetings;
- all correspondence (including emails) between DG Growth officials and/or representatives (including the Commissioner and the Cabinet) and representatives of individual companies (including lobby consultancies and law firms) and/or industry associations, in which the PA on Defence Research and the EDRP were dealt with (between January 2012 and today).

We consider your request to cover documents held up to the date of your initial application, i.e. 07.02.2017.

Regarding the part of your request which concerns a list of meetings between DG GROW officials and representatives of individual companies and/or industry associations, we have not identified any existing documents matching the scope of your request. Thus that part of the request has been treated as an access to information request, in accordance with the Code of Good Administrative Behaviour.

Please find enclosed a list of meetings in which the topic "the upcoming Preparatory Action (PA) on Defence Research and the European Defence Research Programme (EDRP) were dealt with (since 2012)" was at least one of the topics addressed. We have identified 37 meetings that match the scope of your request. Please refer to Annex 1 – Meeting list (Excel format). This list specifies all meetings subject to your request which we were able to identify. However, this list is redacted and does not include names of individuals or companies as disclosure is prevented by exception to the right of access laid down in Article 4.1(a) second indent, Article 4.1(b) and Article 4(3) of Regulation (EC) No 1049/2001.

Regarding the parts of your request which concern the minutes of the above meetings and the correspondence for the period starting January 2012, we have identified 45 documents that match the scope of your request. The list of these documents and their attachments (the actual files) is in annex (Annex 2 – Document register (Excel format)). This list specifies all documents related to your request which we could identify. That includes any piece of information before, during or after the identified meetings. However, this register is redacted and does not include names of individuals or companies as disclosure is prevented by exception to the right of access laid down in Article 4.1(a) second indent, Article 4.1(b) and Article 4(3) of Regulation (EC) No 1049/2001.

All documents identified relate to the Preparatory Action on Defence Research. No documents were identified for the European Defence Research Programme.

For 16 of the documents you have been granted partial access which amount to a total of 64 files, consisting of the identified attachments in each document, which you receive. These files contain for the most part either agenda, programme, invitation, minutes, conference papers, industry position papers, list of meeting participants, reimbursement forms or email correspondence.

Please refer to Annex 3 – Released documents (Zip format).

Documents 5, 8, 27, 28, 30, 32, 34-38 and 40-45 originate from the European Commission. You may reuse the documents free of charge for noncommercial 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<sup>1</sup>.

Attachments in documents 7, 30, 31, 37, 38, 40 originate from third parties. Please note that the documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

Some of the documents to which you have requested access contain personal data.

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 Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the

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<sup>1</sup> See the Decision of the Commission of 12 December 2011 (2011/833/EU), OJ L 330/39 of 14 December 2011 for details; this Decision does not apply to documents for which third parties hold the copyrights, Article 2 (2) (b).

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<sup>2</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>3</sup>.

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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 Secretary-General of the Commission at the following address:

European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/282  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that access to 26 document (numbers 1-4, 6, 9-26, 29, 33, 39) and their attachments cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4.1(a) second indent of this Regulation.

The withheld parts of the documents contain information relating to the Preparatory Action on Defence Research which is not yet adopted. Mostly the documents are briefings for the DG GROW representative detailing speaking points, the line to take, defensives and background information.

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<sup>2</sup> Official Journal L 8 of 12.1.2001, p. 1

<sup>3</sup> Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

Disclosure of all parts withheld would undermine the protection of defence and military matters (Article 4(1.a)). The Preparatory Action on Defence Research relies on consultations with third party stakeholders to determine the type of research to be conducted. What research can be done and needs to be done is linked with the competence of the European defence industry and the needs of Member States Armed Forces. This type of information is considered to undermine the public interests if disclosed. The final Work Programme and the calls for proposals will be made public. However, stakeholder consultations leading up to publishing this information contain more than the final outcome and cannot be disclosed.

Furthermore, some of the documents withheld are also covered by the exception in Article 4(2) as they contain commercially sensitive information and their disclosure would undermine the interests of the stakeholder(s) in question. Third party stakeholders have been consulted and have referred to company confidentiality as reason for non-disclosure. Additionally, Article 4(3)1 applies to the documents as the Preparatory Action on Defence Research has not been adopted yet and it would undermine the decision making procedure.

The possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001 has also been examined. However, this is not considered possible since the documents in question are covered in their entirety by the above-mentioned exception.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the document concerned, which outweighs the interest protected by the exception to the right of access. In this case the Commission has reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

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 Secretary-General of the Commission at the following address:

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Yours sincerely,

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Lowri Evans