



EUROPEAN COMMISSION

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

Director-General

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By registered letter with acknowledgment of receipt

Mr Peter Teffer
EUobserver
Rue Montoyer 18B
1000 Brussels
Belgium

Advance copy by email:

ask+request-5431-d83361f0@asktheeu.org

Subject: Your application for access to documents – Ref GestDem 2018/2188

Dear Mr Teffer,

We refer to your letter dated 17/04/2018 in which you make a request for access to documents, registered on 19/04/2018 under the above mentioned reference numbers.

You request access to:

“All documents - including but not limited to emails, presentations and minutes - related to the As-If Programme Committee for Defence Research (E03524).”

We have identified 42 documents that match the scope of your request. The documents identified have been listed in the document register enclosed with this letter.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I can inform you that you are granted access to document 1, 6, 9, 11, 17, 19, 20, 24, 26, 27, 30, 31, 35, 37, 39 and 41

Please note that personal data is been expunged from these documents.

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 protection of individuals

with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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 a version of the documents requested in which these personal data have been redacted.

As to the handwritten signatures, which are biometric data, there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned.

I regret to inform you that your application cannot be granted access to the rest of the documents identified in the attached document register, as the request refers to topics that all pertain to on-going policy and decision-making initiatives of the European Defence Fund (EDF). EDF is in its implementation phase with the Preparatory Action for Defence Research in an on-going work programme development- and project selection phase. Therefore, your request falls under the scope of the exception under the public access to documents regulation 1049/2001, of Article 4(3) concerning documents that relates to a matter where the decision has not been taken by the institution or even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process.

The documents which you seek to obtain relate to the EU Defence and public security policy. Disclosure of the requested documents you have not been granted access to would undermine the protection of the EU defence and public security.

Given the sensitivity of this policy sector and the risks such - even partial - disclosure may entail for the EU defence and security, such partial access should also be excluded on the basis of the exception to the right of access laid down in Article 4.1(a) of Regulation (EC) No 1049/2001

According to Article 4(2) and 4(3) of 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 documents concerned, which outweighs the interest protected by the exception to the right of access. In this case we have reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

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 exceptions.

¹ Official Journal L 8 of 12.1.2001, p. 1

² 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.

It should be noted that where possible all relevant documents for the As-If Programme Committee for Defence Research (E03524) have been made publicly available at the Register of Commission Expert groups³. Considering your request, most of the documents you seek are already published in their final version. Final versions of documents in relation to future meetings will also be made available in this online register.

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:

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

Yours sincerely,



Lowri Evans

Annexes:

- Document register
- 16 documents

³ <http://ec.europa.eu/transparency/regexpert/>

Nr.	Type of document	Date of document	Association/Organisation/Company concerned	Reference Number	Sender	Addressee	CC	Disclosure? (Y/N)	Exception	Comments
1	Invitation	06-12-2017	European Commission	grow.ddg3.i.4(2017)6737512	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)	
2	Internal Commission note	30-01-2017	European Commission	grow.ddg3.i.4(2017)577813	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
3	Internal working document	30-01-2017	European Commission	grow.ddg3.i.4(2017)577813	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
4	Internal working document	30-01-2017	European Commission	grow.ddg3.i.4(2017)577813	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
5	Internal working document	30-01-2017	European Commission	grow.ddg3.i.4(2017)577813	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
6	Internal Commission note	30-01-2017	European Commission	grow.ddg3.i.4(2017)577471	EVANS Lowri	HUSAK Tomasz	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)	
7	Internal working document	30-01-2017	European Commission	grow.ddg3.i.4(2017)577471	EVANS Lowri	HUSAK Tomasz	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
8	Internal working document	30-01-2017	European Commission	grow.ddg3.i.4(2017)577471	EVANS Lowri	HUSAK Tomasz	N/A	N	Idem as above	
9	Invitation	19-02-2018	European Commission	grow.ddg3.i.5(2018)1062680	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)	
10	Draft agenda	19-02-2018	European Commission	grow.ddg3.i.5(2018)1062680	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
11	Invitation	10-03-2017	European Commission	grow.ddg3.i.4(2017)1511027	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)	
12	Draft agenda	10-03-2017	European Commission	grow.ddg3.i.4(2017)1511027	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
13	External Email	10-03-2017	European Commission	grow.ddg3.i.4(2017)1511027	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above	
14	Draft agenda	19-02-2018	European Commission	grow.ddg3.i.5(2018)1063660	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above	
15	Draft Invitation	19-02-2018	European Commission	grow.ddg3.i.5(2018)1063660	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above	
16	Draft agenda	19-04-2017	European Commission	grow.ddg3.i.4(2017)2296820	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above	
17	Invitation	19-04-2017	European Commission	grow.ddg3.i.4(2017)2296820	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)	
18	Draft agenda	29-09-2017	European Commission	grow.ddg3.i.4(2017)5391580	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
19	Invitation	29-09-2017	European Commission	grow.ddg3.i.4(2017)5391580	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)	
20	Invitation	26-09-2017	European Commission	grow.ddg3.i.4(2017)5312772	BRUNET Philippe	MEMBER STATES	N/A	Partial	Idem as above	
21	Draft agenda	26-09-2017	European Commission	grow.ddg3.i.4(2017)5312772	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
22	Internal working document	16-05-2018	European Commission	grow.ddg3.i.5(2018)2841648	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above	
23	Draft agenda	16-05-2018	European Commission	grow.ddg3.i.5(2018)2841648	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above	

24	Invitation	16-05-2018	European Commission	grow.ddg3.i.5(2018)2841648	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
25	Draft agenda	11-01-2018	European Commission	grow.ddg3.i.5(2018)214773	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)
26	Invitation	11-01-2018	European Commission	grow.ddg3.i.5(2018)214773	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
27	Invitation	30-06-2017	European Commission	grow.ddg3.i.4(2017)3751624	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
28	Draft agenda	30-06-2017	European Commission	grow.ddg3.i.4(2017)3751624	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)
29	Draft agenda	06-11-2017	European Commission	grow.ddg3.i.4(2017)6087844	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above
30	Invitation	06-11-2017	European Commission	grow.ddg3.i.4(2017)6087844	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
31	Invitation	08-06-2017	European Commission	grow.ddg3.i.4(2017)3287187	BRUNET Philippe	REPRESENTATIONS PERMANENTES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
32	Draft agenda	08-06-2017	European Commission	grow.ddg3.i.4(2017)3287187	BRUNET Philippe	REPRESENTATIONS PERMANENTES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)
33	Draft minutes of meetings with external stakeholders	30-04-2018	European Commission	grow.ddg3.i.5(2018)2547362	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above
34	Draft agenda	30-04-2018	European Commission	grow.ddg3.i.5(2018)2547362	BRUNET Philippe	MEMBER STATES	N/A	N	Idem as above
35	Invitation	30-04-2018	European Commission	grow.ddg3.i.5(2018)2547362	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
36	Draft agenda	11-09-2017	European Commission	grow.ddg3.i.4(2017)4995584	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)
37	Invitation	11-09-2017	European Commission	grow.ddg3.i.4(2017)4995584	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
38	Internal Commission note	11-09-2017	European Commission	grow.ddg3.i.4(2017)4995584	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)
39	Invitation	21-12-2017	European Commission	grow.ddg3.i.4(2017)7125532	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
40	Draft agenda	21-12-2017	European Commission	grow.ddg3.i.4(2017)7125532	BRUNET Philippe	MEMBER STATES	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)
41	Invitation	11-09-2017	European Commission	grow.ddg3.i.4(2017)4993921	BRUNET Philippe	MEMBER STATES	N/A	Partial	Reg (EC) No 1049/2001 Article 4.1(b)
42	External Email	17-10-2017	European Commission	grow.ddg3.i.4(2017)5736387	UK MoD	GROW-staff	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)