Subject: Your application for access to documents - GestDem 2018/2338

Dear Ms Da Silva,

We refer to your application for access to documents dated 25/04/2018 and registered on the same date under the above-mentioned reference number.

We also refer to your reply\(^1\) to our request for clarification dated 18/05/2018\(^2\), in which you clarified the wording of your request by limiting the temporal scope of your request to documents drawn up as from 1 November 2014, while not limiting the material scope any further.

Despite your clarifications, your application still covers a large number of documents. In accordance with article 6 (3) of Regulation 1049/2001 we sent you a request for a fair solution on 08/06/2018\(^3\). In the absence of an answer, we sent a reminder on 14/06/2018\(^4\). We have not received a reply.

You have requested access to:

- A list of lobby meetings held by DG Migration and Home Affairs with Facebook or its intermediaries. The list should include: date, individuals attending and organisational affiliation, the issues discussed;
- Minutes and other reports of these meetings;
- All correspondence (i.e. any emails, correspondence or telephone call notes) between DG Migration and Home Affairs (including the Commissioner and the Cabinet) and Facebook or any intermediaries representing its interests.

In this regard, we were informed by Directorate-General for Communications Networks, Content and Technology that – in the context of a request sent to them – you agreed on 01/06/2018\(^5\) on their proposal for a fair solution dated 25/05/2018, by means of which the scope of your application was limited to reports and minutes, as well as correspondence on lobby meetings with Facebook (or with law firms and consulting companies directly representing this company), excluding other intermediaries, as from 01/11/2014.

\(^1\) Our ref. Ares(2018)2631941.
\(^3\) Our ref. Ares(2018)3149445.
Since you sent the same request to a number of different Directorates-General within the European Commission, and in view of the fact that we (Directorate-General Migration and Home Affairs) did not get an answer to our request for clarification and reminder (see previous page), we are of the opinion that this fair solution is applicable to the Directorate-General Migration and Home Affairs.

As specified in Article 2(3) of Regulation 1049/2001, the right of access applies only to existing documents in the possession of the institution. We would like to inform you that the European Commission does not hold any document that would correspond to “a list of lobby meetings held by DG HOME with Facebook or its intermediaries”.

Three meetings with members of cabinet of Commissioner Julian King took place as follows:

- 11/04/2018: meeting with James Morrison (Head of Cabinet) and Facebook Ireland Limited – subject: fake news
- 06/02/2018: meeting with James Morrison (Head of Cabinet) and Facebook Ireland Limited – subject: Tackling terrorist content on-line
- 19/09/2017: meeting with Severine Wernert /Julie Ruff (Members of Cabinet) and Facebook Ireland Limited – subject: Encryption / e-evidence

These three meetings were short courtesy meetings. No report or minutes were drafted for these meetings. The European Commission therefore does not hold any document that would correspond to your request. As specified in Article 2(3) of Regulation 1049/2001, the right of access applies only to existing documents in the possession of the institution.

Four meetings with the cabinet of Commissioner Dimitris Avramopoulos took place as follows:

- 23/01/2018: meeting with Commissioner Dimitris Avramopoulos / Sofia Asteriadi / Giorgios Rossides (members of cabinet) and Facebook Ireland Limited, subject: Cooperation against terrorist content online
- 06/12/2017: meeting with Commissioner Dimitris Avramopoulos / Giorgios Rossides (member of cabinet) and Facebook Ireland Limited, subject: Internet Forum
- 09/10/2017: meeting with Giorgios Rossides (member of cabinet) and Facebook Ireland Limited, subject: encryption
- 08/12/2016: meeting with Giorgios Rossides (member of cabinet) and Facebook Ireland Limited, subject: Preparation for the Internet Forum

The meetings dated 06/12/2017, 09/10/2017 and 08/12/2016 were short courtesy meetings. No report or minutes were drafted for these meetings. The European Commission therefore does not hold any document that would correspond to your request. As specified in Article 2(3) of Regulation 1049/2001, the right of access applies only to existing documents in the possession of the institution.

A report (Document 1) was prepared for the meeting dated 23/01/2018 (Report meeting with Facebook 08/02/2018 – ref. Ares(2018) 4317801.

In addition, we identified the following documents as relevant for your request:

- Document 2: Flash report: Meeting with Facebook on e-evidence, 27/02/2017 (Ares(2017)1130553)

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6 http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=58192589-47cf-4d15-85a7-049c0bdea751
7 http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=e2d6f6f8-a020-4a91-b127-37f543c30e5b
The documents 1, 2, 3 to which you have requested access contain personal data, in particular names of Commission staff members which are not in a management position. Pursuant to Article 4(1) (b) of Regulation (EC) n°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) n°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. When access is requested to documents containing personal data, Regulation (EC) n°45/2001 becomes fully applicable.

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.

With respect to the aforementioned documents 1, 2 and 3, these documents were drawn up for internal use under the responsibility of the relevant services of the DG HOME. It solely reflects the services’ interpretation of the interventions made and does not contain any official position of the third parties to which the document refers, which were not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the above positions. 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 5/288
1049 Brussels
BELGIUM
or by e-mail to: sg-acc-dxx@xx.xxxopa.eu

Yours sincerely,

Paraskevi Michou

[e-signed]

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