



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND
TECHNOLOGY

The Director-General

Brussels,
CONNECT/R4

Mr Thomas Spekschoor
Wetstraat 155
1040 Brussels
Belgium

Advance copy via email:
ask+request-6888-846c13fe@asktheeu.org

REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your application for access to documents- Ref GestDem 2019/2740

Dear Mr Spekschoor,

We refer to your e-mail dated 9 May 2019 in which you make a request for access to documents, registered on 10 May 2019 under the abovementioned reference number. We also refer to our holding reply dated 4 June 2019, our reference Ares(2019)3595623, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation (EC) No 1049/2001 on public access to documents (hereinafter 'Regulation 1049/2001').

1. SCOPE OF YOUR APPLICATION

You requested access to:

‘documents which contain the following information on the “high level group on fake news and online disinformation”:

- All minutes of meetings of the high level group*
- All communication between the European Commission and the high level group*
- All communication within the high level group, for example letters from participants to the president of the high level group’*

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

We have identified the following documents:

a. All minutes of meetings of the High-Level Expert Group

- Minutes of the First Meeting of the High-Level Expert Group on Fake News, 15 January 2018 (Document No 1)
- Minutes of the Second Meeting of the High-Level Expert Group on Fake News, 7 February 2018 (Document No 2)
- Minutes of the Third Meeting of the High-Level Expert Group on Fake News, 23 February 2018 (Document No 3)
- Minutes of the Fourth Meeting of the High-Level Expert Group on Fake News, 7 March 2018 (Document No 4)

b. All communication between the European Commission and the High-Level Expert Group

- Invitation to High Level Expert Group, 22 December 2017 (Document No 5)
- Letter to the members of the High- High-Level Expert Group on Fake News, 10 January 2018 (Document No 6) and its Annexes: Agenda (Document No 7), Background Note on Fake News and Disinformation online (Document No 8) and Rules of Procedure of the High-Level Group of Experts on Fake News (Document No 9)
- Standard privacy statement (Document No 10)
- Note to the attention of High-Level Expert Group on Fake News: Rules on Reimbursement, 16 January 2018 (Document No 11) and the attached information sheet (Document No 12)
- Email to the members of the High Level Expert Group on Fake News, 17 January 2018 (Document No 13)
- Email to the Chair and members of the High-Level Expert Group on Fake News, 22 January 2019 and the attached list of subgroups (Document No 14)
- Agenda of the second High-Level Expert Group Meeting (Document No 15)
- Note to the attention of High-Level Expert Group on Fake News: Rules on Reimbursement, 19 February 2018 (Document No 16) and the abovementioned (Document No 12) attached information sheet
- Agenda of the third High-Level Expert Group Meeting (Document No 17)
- Note to the attention of High-Level Expert Group on Fake News: Rules on Reimbursement, 2 March 2018 (Document No 18) and the abovementioned (Document No 12) attached information sheet

- Agenda of the fourth High-Level Expert Group Meeting (Document No 19)

c. All communication within the High-Level Expert Group

We regret to inform you that we have not identified any documents relating to the communication within the High-Level Expert Group.

3. ASSESSMENT UNDER REGULATION 1049/2001

Having assessed the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that full disclosure can be granted for twelve documents. Partial access with only personal data redacted can be granted to all other documents.

A. Full disclosure

Documents No 1, 2, 3, 4, 7, 8, 9, 10, 12, 15, 17 and 19 are fully disclosed.

Please note that these Documents are publicly available on the Register of Commission Expert Groups via the following link:

<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3567>

B. Partial access with only personal data redacted

Parts of documents No 5, 6, 11, 13, 14, 16 and 18 contain personal data, in particular names, initials, contact details, functions, handwritten signatures of the Commission staff. They also contain contact details (email addresses and telephone numbers) of the members of the High-Level Expert Group. Pursuant to Article 4(1)(b) Regulation 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 (EC) No 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/EC¹ ('Regulation 2018/1725').

Indeed, 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 data². Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data³.

¹ Official Journal L 205 of 21.11.2018, p. 39.

² Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, Peter Novak v Data Protection Commissioner, request for a preliminary ruling, paragraphs 33-35, ECLI:EU:T:2018:560

³ Judgment of the General Court of 19 September 2018 in case T-39/17, Port de Brest v Commission, paragraphs 43-44, ECLI:EU:T:2018:560

Pursuant to Article 9(1)(b) of Regulation 2018/1725, personal data shall only be transmitted 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 processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

In your application, you do not put forward any arguments to establish the necessity to have the personal 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.

Consequently, I conclude that access cannot be granted to the abovementioned 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.

You may reuse the documents free of charge, for non-commercial and commercial purposes provided that the source is acknowledged, 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.

C. No documents identified

Regarding communication within the High-Level Expert group we were not able to identify any documents.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

In the light of the above, we are not in a position to further fulfil your request.

4. 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 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, Document Management & Access to Documents (SG.C.1)
BERL 5/282
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

(e-Signed)
Roberto Viola

Enclosures: (19)