



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

The Director-General

Brussels, 8<sup>th</sup> March 2021  
CNECT/RV

Ms Rachel Hanna  
Calle de Vinaroz 2, 1g  
Madrid  
XXXXX

***Advance copy via email:***

[ask+request-8954-7feca4b5@asktheeu.org](mailto:ask+request-8954-7feca4b5@asktheeu.org)

**REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT**

**Subject: Your application for access to documents- Ref GestDem 2021/0349**

Dear Ms Hanna,

We refer to your email dated 20 January 2021 wherein you make a request for access to documents pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter 'Regulation 1049/2001'), registered under the abovementioned reference number. We also refer to our holding reply, dated 15 February 2021, our reference Ares(2021)1263019, 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 1049/2001.

**1. SCOPE OF YOUR APPLICATION**

Your application reads as follows:

*'Dear Communications Networks, Content and Technology,*

*Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am submitting the following access to documents request.*

*From the Comitology Register I can see that the Committee on open data and the re-use of public sector information (C51600) has held two meetings. In relation to these committee meetings, I would like to request the following:*

*1. Minutes/record of decisions taken and all documents circulated, presented and/or discussed at the first meeting on 30 October 2019, especially documents relating to the Analysis of Member States information on statistics and company registers;*

*2. Minutes/record of decisions taken and all documents circulated, presented and/or discussed at the first meeting on 25 June 2020, especially documents relating to the Impact Assessment Study;*

*3. All agendas/preparatory documents and dates for upcoming meetings;*

*4. Membership of the committee, and attendance of meetings held so far.*

*Yours faithfully, '*

## **2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST**

We have identified the following documents as falling within the scope of your application:

- Agenda of the 1<sup>st</sup> meeting of the Committee on open data and the re-use of public sector information 9 ('PSI') on 30 October 2019 ('**Document 1**')
- Summary record of the 1st meeting of the Committee on open data and the re-use of PSI on 30 October 2019 ('**Document 2**')
- Agenda of the 2<sup>nd</sup> meeting of the Committee on open data and the re-use of public sector information 9 ('PSI') on 25 June 2020 ('**Document 3**')
- Summary record of the 2nd meeting of the Committee on open data and the re-use of PSI on 25 June 2020 ('**Document 4**')
- Privacy Statement ('**Document 5**')
- Presentation: Public Service of Reference Data, PSI Group 29.10.2019, ('**Document 6**')
- Presentation: Committee on open data and the re-use of public sector information-Functioning of the Committee ('**Document 7**')
- Presentation: Feedback received from the MS: Statistics – Companies and Company Ownership ('**Document 8**')
- Presentation: Inspire Directive DG ENV, Committee on open data and the re-use of public sector information, 30 October 2019, Brussels ('**Document 9**')
- Presentation: Building pan-European geographical datasets, Challenges and opportunities, Eurostat Gisco ('**Document 10**')
- Presentation: Good Basic Data for everyone- A driver for Growth and Efficiency- The eGovernment Strategy 2011-2015, The Danish Government/ Local Government Denmark, October 2012('**Document 11**')
- Email exchanges between 11 June 2020 and 24 June 2020 related to the invitation to the Open Data Committee, 25 June 2020 ('**Document 12**')
- Presentation: Open Data Committee, Impact assessment study on the list of High Value Datasets to be made available by the Member States under the PSI Directive, 25 June 2020 ('**Document 13**')
- PSI HVDs thematic areas datasets, in particular : Company ('**Document 14a**'), Geospatial (**Document 14b**), Meteorological Data (**Document 14c**), EO and Environment (**Document 14d**), Statistics (**Document 14e**) and Mobility (**Document 14f**)
- Open Data Committee Questions and Answers ('**Document 15**')
- Second interim report meeting, Impact assessment study on the list of High Value Datasets to be made available by the Member States under the PSI Directive, 9 June 2020 ('**Document 16**')

- Email, dated 13 February 2020 received from a Member State ('Document 17') and its attachment, Importance of data quality of High Value Datasets (HVDs) ('Document 18')
- Email, dated 7 July 2020 received from a Member State ('Document 19')
- Emails from November 2020 received from two Member States ('Document 20') and the attachment, a joint non-paper relating to the availability of Public Datasets ('Document 21')

### **3. ASSESSMENT UNDER REGULATION 1049/2001**

Following an examination of the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that full access can be granted to 17 documents. Partial access can be granted to three documents and access is denied for six documents as disclosure of these parts is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

#### **A. Full disclosure**

Documents 1-9, 13-14f and 16 are fully disclosed.

Please note that Documents 1-5 are publicly available via the following link:

<https://ec.europa.eu/transparency/comitology-register/screen/committees/C51600/consult?lang=en>

#### **B. Partial disclosure**

##### *(i) Protection of privacy and integrity of individuals*

Full disclosure of Documents 11-12, is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since they contain the following personal data:

- Names, functions and contact information of Commission staff members not pertaining to the senior management
- Names, functions, contact details of other natural persons

Article 9(1)(b) of the Data Protection Regulation<sup>1</sup> 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 do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) Regulation 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need

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<sup>1</sup> Regulation (EU) 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/EC, OJ L 295, 21.11.2018, p. 39.

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.

*(ii) Protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State*

Article 4(1)(a), fourth indent of Regulation 1049/2001 provides that *[t]he institutions shall refuse access to a document where disclosure would undermine the protection of the financial, monetary or economic policy of the Community or a Member State.*

The EU Courts have acknowledged that the institutions enjoy a wide discretion when considering whether access to a document may undermine the public interest<sup>2</sup>.

Parts of Document 10 contain confidential and sensitive information which was not intended for public disclosure and would undermine the EU's financial policy, if publicly released. Consequently, the above-mentioned parts of Documents 10 have been blanked out.

### **C. Non- disclosure**

We regret to inform you that access to Documents 15 and 17-21 cannot be granted as disclosure is prevented by the exception to the right of access laid down in Article 4(3) of Regulation 1049/2001, with regard to the protection of the decision-making process.

The first subparagraph of Article 4(3) of Regulation 1049/2001 provides that '[a]ccess to a document, drawn up by an institution for internal use or received by the an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.'

Document 15 contains information related to the discussions that took place in the Committee on open data and PSI. The relevant exchanges took place in confidentiality, according to the relevant provisions of the rules of procedure and they are not intended for public release as their disclosure would undermine the decision-making process.

Documents 17-21 contain the views and positions of the concerned Member States. Giving public access to this information would undermine the decision-making process.

Moreover, parts of Documents 17 - 20 also contain personal data, in particular the names and contact details of Commission staff members not pertaining to the senior management and the names, functions and contact details of other natural persons, thus their disclosure is prevented by the exception of Article 4(1)(b) of Regulation 1049/2001 for the reasons set out in Section B(i).

We have considered whether partial access could be granted to these documents. However, partial access is not possible considering that the documents are covered in its entirety by the abovementioned exceptions of Article 4 of Regulation 1049/2001.

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<sup>2</sup> Judgment of the Court of First Instance of 25 April 2007, WWF European Policy Programme v Council, T-264/04, EU:T:2007:114, paragraph 40.

#### **4. OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

The exception laid down in Article 4(3) of Regulation 1049/2001 applies, unless there is an overriding public interest in the disclosure of documents. Such an interest must, firstly, be a public interest and, secondly, outweigh the harm caused by disclosure. We have examined whether there could be an overriding public interest in the disclosure of the aforementioned documents but we have not been able to identify such an interest.

#### **5. REUSE OF DOCUMENTS**

You may reuse public documents 1-12, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the documents disclosed free of charge and 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 document/documents. Please note that the Commission does not assume liability stemming from the reuse.

Documents 13-14f and 16 originate from a third party. Please note that they are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originators, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

#### **6. CONFIRMATORY APPLICATION**

In accordance with Article 7(2) of Regulation (EC) No 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 at the following address:

European Commission  
Secretariat-General  
Transparency, Document Management & Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

*(e-signed)*

Roberto Viola

Enclosures: (20)