



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

The Director-General

Brussels
CNECT.R.4

Matteo Civillini
Via Cordusio 4
Milano
Italy

Advance copy via email:
ask+request-9344-d72e56be@asktheeu.org

REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your request for access to documents - GestDem 2021/2361

Dear Mr Civillini,

We refer to your 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') that you introduced on 15 April 2021 via email and which was registered on the same day under the above-mentioned reference number. We also refer to our holding reply, dated 6 May 2021, our reference Ares(2021)3036470, 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

By your application, you request access to the following:

'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 requesting documents which contain the following information:

For the period between 1 November 2020 to date:

- a list of all lobby and industry meetings and/or calls held by DG CONNECT, including any Cabinet Members and/or official, during which plans/proposals/offers about Covid-19 Vaccine Passports and/or the Digital Green Certificate were discussed. The list should include: date, individuals attending and organisational affiliation, as well as the issues discussed;

- all minutes and other reports of these meetings and/or calls;

- all documents prepared for the purpose of the meetings issued both in preparation and after the meetings took place.

- all correspondence, including attachments (i.e. any emails, mail correspondence, telephone call notes, presentations) between DG CONNECT, including any Cabinet Members and/or officials, and any lobby group and/or industry representative discussing plans/proposals/offers about Covid-19 Vaccine Passports and/or the Digital Green Certificate; (...)

Given the wide-scope of your request we contacted you on 4 May 2021 with a view to finding a fair solution based on Article 6(3) of Regulation 1049/2001 (our reference, Ares(2021)2960656). In order to help you narrow down the scope of the request, we provided you with a breakdown per requested category of the approximately 30 to 40 documents that had been identified at that stage. We indicated the steps that the handling of your application would entail and we concluded that according to our estimates a maximum of 15 documents could possibly be dealt with within 30 working days counting from the date of registration of your application. You have not replied to our invitation to propose a fair solution.

In line with the principles of sound financial management and good administration to which the Commission is bound to, pursuant to Article 310(5) of the Treaty on the functioning of the European Union, we are obliged to balance your interest in access against the workload resulting from the processing of your application. This is in line with the case law of the EU courts¹.

We have therefore, as announced in our email of 4 May 2021 and taking into account the categories of documents communicated therein, proceeded to the unilateral restriction of the scope of your application to the documents identified under point 2. This is what we could achieve, taking into account the Commission's resources and the global workload of the concerned staff during the same period, within the given timeframe.

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

The following documents fall within the scope of the request after having been restricted:

- Back to office report (BTO) of DG CONNECT on a meeting held on 2 March 2021 (Ares(2021)2016291) (**Document 1**)
- BTO of DG CONNECT on a meeting on COVID-19 tech solutions held on 19 April 2021 (Ares(2021)2622926) (**Document 2**)
- Email of Accredible, dated 2 March 2021: Advice on who to talk to about proof of COVID vaccination? (Ares(2021)1596766) (**Document 3**)
- Reply of DG CONNECT to Accredible of 12 March 2021 (Ares(2021)1596766) (**Document 4**)
- Letter of Becker Druck, dated 26 February 2021: Production of a forgery-proof vaccine passport (Ares(2021)1634329) (**Document 5**)
- Letters of Becker Druck, dated 15 March 2021: Concept of a forgery-proof vaccine passport (Ares(2021)1634329) (**Document 6**)
- Reply of DG CONNECT to Becker Druck, dated 24 March 2021 (Ares(2021)1634329) (**Document 7**)

¹ Judgment of the Court of Justice of 2 October 2014 in case C-127/13, Strack v Commission, paragraphs 27-28.

- Email of SafeWorld, dated 4 March 2021: SafeWorld™, the solution for the vaccination pass (Ares(2021)1635039) (**Document 8**)
- Reply of DG CONNECT to SafeWorld, dated 24 March 2021 (Ares(2021)1635039) (**Document 9**)
- Email of Veridoc Global, dated 18 March 2021: Digital Green Certificate Verification Solution (Ares(2021)1948968) (**Document 10**)
- Reply of DG CONNECT to Veridoc Global, dated 6 April 2021 (Ares(2021)1948968) (**Document 11**)
- Email, dated 19 March 2021 (Ares(2021)1977778) (**Document 12**)
- Reply of DG CONNECT, dated 29 March 2021 to Email of 19 March (Ares(2021)1977778) (**Document 13**)
- Email of AU-Schein GmbH, dated 18 March 2021: Experts advice on "digital green certificate" (Ares(2021)2112154) (**Document 14**)
- Reply of DG CONNECT to AU-Schein GmbH, dated 12 April (Ares(2021)2112154) (**Document 15**)

3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001 and taking into account the opinions of the third parties we have arrived at the conclusion that partial access can be granted to fourteen documents and access must be refused to one document. Full disclosure and partial disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001. Please note that parts of Documents 3 and 6 have been blanked out as being outside the scope of the request.

A. Partial disclosure

(i) Protection of privacy and integrity of individuals

Full disclosure of Documents 1 - 11 and 13 - 15 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:

- the names/initials, functions and contact information of Commission staff members not pertaining to the senior management;
- Names, functions, contact information and handwritten signatures of other natural persons;
- other information relating to an identified or identifiable natural person.

Article 9(1)(b) of the Data Protection Regulation² 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

² 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.

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 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 commercial interests

Article 4(2) first indent of Regulation 1049/2001 provides that the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.

This provision must be interpreted in light of Article 339 of the Treaty of the Functioning of the European Union (TFEU), which requires staff members of the EU institutions to refrain from disclosing information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Parts of Documents 1 and 13 are covered by the abovementioned exception as they contain sensitive business information relating to the concerned third parties' activities, strategies and views. Disclosure of these parts of the document would seriously affect the third parties' relations and positions in the market and would undermine their commercial interests.

Consequently, the above-mentioned parts of Documents 1 and 13 have been blanked out.

B. Non-disclosure

We regret to inform you that access to Document 12 cannot be granted as disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

Disclosure of Document 12 is prevented by the exception of Article 4(2) first indent of Regulation 1049/2001 with regard to the protection of commercial interests of a natural or legal person, including intellectual property. Document 12 originates from a third party and refers to the activities and business information of a third party. Within the statutory time-limit we could not obtain the views of the originator of this document about a potential disclosure. After assessment, we have arrived at the conclusion that the disclosure of this document could adversely affect the commercial interests of the concerned third party. Moreover parts of this document contains personal data, in particular the names, functions and contact details of 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 A (i).

We have considered whether partial access could be granted to this document. However, partial access is not possible considering that the document is covered in its entirety by the abovementioned exceptions of Article 4 of Regulation 1049/2001. In light of the foregoing considerations access to Document 12 must be completely refused.

4. OVERRIDING INTEREST IN DISCLOSURE

The exceptions laid down in Article 4(2) and Article 4(3) of Regulation 1049/2001 apply, 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 parts of the documents but we have not been able to identify such an interest.

5. REUSE OF DOCUMENTS

You may reuse Documents 1, 2, 4, 7, 9, 11, 13 and 15 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 these parts of 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 documents. Please note that the Commission does not assume liability stemming from the reuse.

Documents 1 and 2 were drawn up for internal use under the responsibility of DG CONNECT. They solely reflect the services' interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer, which were not consulted on their content. They do not reflect the position of the Commission and cannot be quoted as such.

Documents 3, 5, 6, 8, 10 and 14 originate from third parties. 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

Yours sincerely,

Electronically signed

Roberto Viola

Enclosures: (14)