



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

The Director- General

Brussels, 17th September 2021
CONNECT/R4

Mr Clement Le Foll
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57000 Metz
France

Advance copy via email:
ask+request-9623-e4018d6c@asktheeu.org

REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your application for access to documents - RefGestDem 2021/3842

Dear Mr Le Foll,

We refer to your email dated 10 June 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 on 11 June 2021 under the abovementioned reference number.

1. SCOPE OF YOUR APPLICATIONS

Your request reads as follows:

*" [...] 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:
All documentation (including but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to the meeting between Fabrice Comptour, Cabinet member of Thierry Breton and Atos on 16th December 2020 [...].*

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

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

- Email from DG CONNECT dated 3 December 2020: Invitation to Roundtable with Commissioner Breton **(Document 1)**
- Briefing of the Virtual Roundtable with the European cloud computing industry, 16 December 2020, “Shaping the next generation cloud supply for Europe” **(Document 2)**
- CVs for the Roundtable on Cloud with Commissioner Breton **(Document 3)**
- Draft Agenda of the Virtual Roundtable - Shaping the Next Generation Cloud Supply for Europe 16 December, 16.00 - 17.30 **(Document 4)**
- List of participating organisations **(Document 5)**
- Report of the Roundtable on Cloud and Edge organised on 16/12/2020 **(Document 6)**

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 they can be partially disclosed, as disclosure of certain parts is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

A. Partial disclosure

(i) Protection of privacy and integrity of individuals

Full disclosure of the identified documents 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 details of Commission staff members not pertaining to the senior management
- Names, functions, CV and contact details of other natural persons.

Article 9(1)(b) of the Data Protection Regulation¹ 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.

¹Regulation (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.

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 Document 2 are covered by the abovementioned exception as they contain confidential and business sensitive information relating to the concerned third parties' activities. Disclosure of these parts of the document would seriously affect the third parties' relations and position in the market and would undermine their commercial interests.

Therefore, we have blanked out the relevant parts of this document.

(iii) 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 2 contains parts covered by the aforementioned exception of Article 4(3) first subparagraph. In particular, they relate to initiatives on Edge and Cloud that are currently under preparation. Disclosure of these parts would seriously undermine the protection of the relevant ongoing decision-making processes, if publicly released.

Consequently, the above-mentioned parts of Document 2 have been blanked out.

4. OVERRIDING PUBLIC 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 parts of Document 2, which are being withheld, but we have not been able to identify such an interest.

5. REUSE OF DOCUMENTS

Documents 2 and 6 were drawn up for internal use under the responsibility of the relevant services of the Commission. 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 can not be quoted as such.

You may reuse public documents, 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 the Commission documents](#). You may reuse the disclosed Documents 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.

6. 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 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: (6)

