



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

The Director-General

Brussels
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**By registered letter with
acknowledgment of receipt**

Chloé BERTHÉLÉMY
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1040 Brussels

Advance copy by email:
ask+request-9816-cee6b78d@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2021/4734

Dear Madam,

We refer to your e-mail of 27/07/2021, in which you make a request for access to documents, registered on 27/07/2021 under the above-mentioned reference number.

You request access to

- All preparatory notes and other documents (concept notes, summaries of the meetings etc.) for the preparation, organisation, running and evaluation of all the technical workshops on the revision of the Prüm Decisions that took place in the past year.

- All visual support or written documents (notes, online presentation, etc.) that supported the Commission's presentation at the online Informal videoconference of the members of the Working Party on JHA Information Exchange (IXIM) of 21 April 2021, as referred to in CM 2415/1/21, page 3, as well as from any other meeting that took place in the past year with the IXIM Working Party to discuss the revision of the Prüm decisions

We sent you on 05/08/2021 a request for clarification. You replied on 17/08/2021, indicating that the period covered by your request is from July 2020 to July 2021.

The following documents fall within the scope of your application:

Technical workshops

Four such technical workshops took place during the temporal scope of your request, on 17/03/2021, 26/03/2021, 20/04/2021 and 04/05/2021.

These workshops were informal consultation of Member States' experts and end-users, and were aimed at the full and enlightened information of the Commission from a technical

perspective, with a view to preparing the future revision of the Prüm Decisions. For this reason, no reports for the participants were prepared.

- 1st Technical workshop 17/03/2021
 - o Agenda, ARES number (2021)6900930, document 1
 - o Presentation by the Commission, ARES number (2021)6901013, document 2
 - o Presentation by the Commission, ARES number (2021)6901070, document 3
 - o Presentation by Sweden, ARES number (2021)6901109, document 4
 - o Presentation by Austria, ARES number (2021)6901138, document 5
- 2nd Technical workshop 26/03/2021
 - o Agenda, ARES number (2021)6901195, document 6
 - o Presentation by the Commission, ARES number (2021)6901232, document 7
 - o Presentation by the Commission, ARES number (2021)6901293, document 8
 - o Presentation by Estonia, ARES number (2021)6901350, document 9
 - o Presentation by Finland, ARES number (2021)6901391, document 10
- 3rd Technical workshop 20/04/2021
 - o Agenda, ARES number (2021)6901435, document 11
 - o Presentation by the Commission, ARES number (2021)6901556, document 12
 - o Presentation by the Commission, ARES number (2021)6901606, document 13
 - o Presentation by the Commission, ARES number (2021)6901678, document 14
 - o Presentation by the Commission, ARES number (2021)6901720, document 15
 - o Presentation by France, ARES number (2021)6901770, document 16
 - o Presentation by Germany, ARES number (2021)6901808, document 17
 - o Presentation by the Netherlands, ARES number (2021)6901846, document 18
 - o Presentation by Slovenia, ARES number (2021)6901897, document 19
 - o Presentation by Slovenia, ARES number (2021)6901944, document 20
- 4th Technical workshop 04/05/2021
 - o Agenda, ARES number (2021)6901987, document 21
 - o Presentation by the Commission, ARES number (2021)6902043, document 22
 - o Presentation by the Commission, ARES number (2021)6902108, document 23
 - o Presentation by Germany, document 24
 - o Presentation by France and Switzerland, ARES number (2021)6902224, document 25
 - o Presentation by Portugal, ARES number (2021)6902264, document 26

Informal videoconference of the members of the Working Party on JHA Information Exchange (IXIM) of 21 April 2021

No documents were identified for this point of your request. See below.

Any other meeting that took place in the past year with the IXIM Working Party to discuss the revision of the Prüm decisions

The following document was identified:

- Presentation by the Commission, ARES number (2021)6902309, document 27.

Since documents 4, 5, 9, 10, 16, 17, 18, 19, 20, 24, 25, and 26 originate from third parties, the originators of the documents have been consulted.

Following an examination of the above referred documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third parties, I inform you that full access, save protection of personal data, is given to you for documents 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and 27.

I regret to inform you that your application cannot be granted to documents 5, 24, and 25, as disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(a) first indent (public security), Article 4(1)(b) of this Regulation (privacy and the integrity of the individual) and Article 4(3) first paragraph (protection of an on-going decision making process).

I am of the opinion that these documents 5, 24 and 25 contain sensitive considerations related to examples of exchanges of information and operational data. The disclosure of this information would reveal preliminary views and strategy options which were being considered, and thus undermine the institutions' decision-making process, as it would deter the persons making the presentations from making such remarks independently and without being unduly influenced by the prospect of wide disclosure exposing the institution and services to which they belong.

The exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents.

I observe that you have not provided any arguments to support any pressing need for the public to obtain access to the documents. I have also examined whether there could be an overriding public interest in disclosure, but I have not been able to identify such an interest.

Moreover, the documents 5, 24, and 25, which you seek to obtain, originate from a third party.

- Document 5. The author of the document has accepted partial disclosure of the document and has motivated their position as follows: There are slides in this presentation which – even if personal data content has been anonymised – contain parts of personal data of individuals and operational database information which are reserved exclusively for the experts of the Member States and European Commission and are not suitable for publication outside limited

circle of addressees of the above mentioned authorities as publication would violate the rights of individuals.

- Document 24. The author of the document has objected to disclosure of the document as such and has motivated their position as follows: Broad awareness of the information contained poses a threat to public safety. In addition to generally accessible information, the presentation also contains data on the equipment of other EU countries or on the development status of individual comparative systems.
- Document 25. The author of the document has accepted partial disclosure of the document and has motivated their position as follows: The presentation contains operational data relating to an experimental project that is not currently known to the public. Thus, the disclosure of this data would undermine public interest and in particular public security.

With regards to the documents 5, 24, and 25 listed above, the disclosure of the identified documents is therefore prevented by the exceptions concerning the protection of privacy and the integrity of the individual, public security, and the decision-making process outlined, respectively, in Article 4(1)(b), Article 4(1)(a), and Article 4(3) of the Regulation (EC) No 1049/2001.

With regard to documents 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 27 listed above, a complete disclosure of the identified documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- information and pictures publicly available;
- other information relating to an identified or identifiable natural person, such as photos, screenshots, and fingerprints.

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

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 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.

The exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. For the same reasons as explained above, we have not been able to identify such an interest.

We indicated above that we were not able to identify relevant documents as far as the “*Informal videoconference of the members of the Working Party on JHA Information Exchange (IXIM) of 21 April 2021*” is concerned. We indeed regret to inform you that the

Commission does not hold any documents that would correspond to the description given in your application because the Commission during this meeting made an oral presentation without any written or visual support.

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.

Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request for these specific documents.

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 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 documents. Please note that the Commission does not assume liability stemming from the reuse.

Please note that documents originating from third parties 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 originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

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 Secretary-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 faithfully,

[e-signed]

Monique PARIAT

Enclosure: Documents 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, and 27, as referred to in the present letter.