



## EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Resources and Support  
**Compliance and Planning**

Brussels  
CNECT.R.4

Margarida da Silva  
Rue D'Edimbourg 26  
1050 Ixelles  
Belgique

*Advance copy per e-mail:*  
[ask+request-9924-  
37c8bed6@asktheeu.org](mailto:ask+request-9924-37c8bed6@asktheeu.org)

### **REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT**

**Subject: Your access to documents request - GestDem 2021/5425**

Dear Ms da Silva,

We refer to your e-mail of 10 September 2021 in which you make a request for public 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 10 September 2021 under the above-mentioned reference number. We also refer to our holding reply, dated 1 October 2021, our reference Ares(2021)6774592, 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**

You requested access to the following:

*'Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting all documents which contain input, feedback, comments or analysis from any and all EU agencies to the development of the AI Act.*

*This may include, but not necessarily be limited to:*

- position papers, reports, opinion papers submitted by those agencies*
- correspondence, minutes of the meetings, verbatim reports of the meetings, transcripts, that would provide a record of the proceedings of meetings between*

*DG CNECT officials (including the Commissioner and Cabinet) and those agencies to discuss the AI Act.*

*I am interested in documents dated from January 2020 until now.'*

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

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

- 1) BTO - Meeting CNECT.A2 and ENISA 18 June 2021; Ares(2021)5816381  
**(Document 1)**
- 2) BTO - Meeting CNECT.A2 with ENISA 2 July 2021; Ares(2021)5817498  
**(Document 2)**
- 3) BTO - Meeting CNECT.A2 with ENISA 19 July 2021; Ares(2021)6116951  
**(Document 3)**
- 4) BTO - Meeting CNECT.A2 with ENISA 27 August 2021; Ares(2021)5817650  
**(Document 4)**
- 5) ENISA Briefing Note AI Regulation and the Coordinated Plan on AI 2021review; Ares(2021)5817854 **(Document 5)**
- 6) Feedback from the EU Agency for Fundamental Rights on the White Paper on Artificial Intelligence - a European Approach; Ares(2020)3430265 **(Document 6)**
- 7) BTO for the meeting between Roberto Viola and Michael O'Flaherty from the EU Agency for Fundamental Rights from 22 October 2020; Ares(2021)5875856  
**(Document 7)**
- 8) Report of the EU Agency for Fundamental Rights: "Getting the future right – Artificial intelligence and fundamental rights", Ares(2021)6056638  
**(Document 8)**
- 9) (Video) FRA participation in the 2020 AI Alliance Assembly in the panel "Biometric identification: Why? Yes? No? How?" **(Document 9)**
- 10) Emails between DG CNECT and ENISA from 20 and 21 September 2021, Ares(2021)6269031 **(Document 10)**

## **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 Documents 5, 8 and 9 can be fully disclosed. Documents 1-4, 6, 7 and 10 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. Full disclosure**

Having examined Documents 5, 8 and 9 under the provisions of Regulation 1049/2001, we have come to the conclusion that full access can be given. Please find enclosed copies of the requested Documents 5 and 8.

As regards Document 8, please be informed that DG CONNECT received this document prior to its publication, as it served as input to the Commission's work on the AI Act and the Impact Assessment.

Please note that the Document 9 is a video which is publicly available online on the following webpage:

## **B. Partial disclosure**

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

Full disclosure of Documents 1 to 4, 6, 7 and 10 is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) of Regulation 1049/2001, since they contain the following personal data:

- Names, functions and contact details of Commission staff members, European Union Agency for Cybersecurity (ENISA) staff members and European Union Agency for Fundamental Rights (FRA) staff members not pertaining to the senior management;
- Names, functions and contact details of other natural persons;
- Other information relating to an identified or identifiable natural person.

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 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) of 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.

As a result, the above-mentioned parts of Documents 1 to 4, 6, 7 and 10 have been blanked out.

## **4. REUSE OF 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 1, 2, 3, 4, 5, 6, 7 and 10 were drawn up for internal use under the responsibility of the relevant services and agencies. They solely reflect the services' and agencies' interpretation of the interventions made and do not set out any official position of the third parties to which the document refers. They do not reflect the position of the Commission and cannot be quoted as such.

## 5. POSSIBILITY OF A CONFIRMATORY APPLICATION

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application, requesting the Commission to reconsider 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  
Unit 'Transparency, Document Management & Access to Documents' (SG.C.1)  
BERL 7/076  
1049 Brussels  
BELGIUM,

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu).

Yours sincerely,

Electronically signed

Martin Schauer  
Head of Unit (acting)

Enclosures: (9)