



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate D - Waterborne
D.1 - Maritime Transport & Logistics

Brussels
MOVE.DDG2.D1

Ms. Kalina Dmitriew
1 Long Lane
London SE1 4PG
United Kingdom

sent by e-mail with acknowledgment of receipt:
ask+request-10724-d9fc7a81@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2022/1043

Dear Madam,

We refer to your application dated 14 February 2022 in which you make a request for access to documents, registered on 18 February 2022 under the abovementioned reference number, as well as to our holding reply of 9 March 2022.

You request access to:

“All documentation, including but not limited to, attendance lists, agendas, background papers, minutes/notes and email correspondence about or summarising the following meetings of the cabinet members of Commissioner Adina-Ioana Vălean with multiple organisations.

1. Meeting with World Shipping Council on 19/11/2021 to discuss the evolutions of the maritime sector(...).”

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of other units of the Directorate-General for Mobility and Transport (DG MOVE), parts of your request have been attributed to other units¹. This reply relates only to the documents concerning the meeting listed above. You will receive the replies from the other respective units of DG MOVE in due course.

Having examined your request, we have identified the following documents as falling within the scope of your application:

¹ In particular, the request registered under the reference number GESTDEM 2022/1044, which concerns the “*Meeting with Verband der Automobilindustrie (VDA) on 03/02/2022 to discuss the Automotive Industry*”, and the request registered under the reference number GESTDEM 2022/1045, which concerns the “*Meeting with International Consolidated Airlines Group (IAG) on 31/01/2022 to discuss the Transport sustainability commitments of IAG in the framework of "Fit for 55 package"*” and the “*Meeting with Air France KLM (AFKL) on 24/11/2021 to discuss the meeting on the aviation sector and Fit for 55*”.

- Annex A1: email from a representative of World Shipping Council to a member of the Cabinet of Commissioner Vălean dated 26 October 2021, on 'FuelEU Maritime and EU ETS: Sharing World Shipping Council review offering strengths and improvements for the proposal', with the two enclosed attachments.

We enclose a copy of the documents requested.

As regards the documents listed above, we have come to the conclusion that they may be partially disclosed. 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 regarding public access to European Parliament, Council and Commission documents² (hereinafter 'Regulation (EC) No 1049/2001'), because they contain the following personal data:

- Contact information of Commission staff members;
- The names and contact details of other natural persons;
- Other information relating to identified or identifiable natural persons, in particular references to functions of natural persons, to the extent that these would enable their identification.

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data.

The applicable legislation in this field is 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/EC³ (hereinafter 'Regulation (EU) 2018/1725', or 'Data Protection Regulation').

In particular, Article 3(1) of Regulation (EU) 2018/1725 provides that personal data 'means any information relating to an identified or identifiable natural person [...]'. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data⁴.

In its judgment in Case C-28/08 P (*Bavarian Lager*)⁵, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁶.

² 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 (OJ L 145, 31.05.2001, p. 43).

³ 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 (OC L 205 of 21.11.2018, p. 39).

⁴ Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, ECLI:EU:C:2017:994, paragraphs 33-35.

⁵ Judgment of 29 June 2010 in Case C-28/08 P, *Commission v Bavarian Lager*, ECLI:EU:C:2010:378, paragraph 63.

⁶ Whereas this judgment specifically related to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, the principles set out therein are also applicable under the new data protection regime established by Regulation (EU) 2018/1725.

In your application, you indicate that your address is in the United Kingdom. Transfers of personal data from the Commission to countries that are not members of the European Economic Area (EEA) are regulated under Chapter V of the Data Protection Regulation.

According to Article 47(1) of this Regulation, a transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that country, or the international organisation in question, ensures an adequate level of protection and where the personal data are transferred solely to allow tasks within the competence of the controller to be carried out.

Based on the information available, the country of your residence is recognised by the Commission as ensuring an adequate level of protection. However, we would further like to inform you that pursuant to Article 9(1)(b) of the Data Protection Regulation, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if ‘[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests’.

Only if these conditions are fulfilled and the processing constitutes lawful handling, in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of the Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted to you for a specific purpose in the public interest. It is only in that case the European Commission has to examine whether there is a reason to assume that the legitimate interests of the data subject might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

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. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

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.

Please note that the emails 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 submit 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
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Brussels,

or by email to: sg-acc-doc@ec.europa.eu

The COVID-19 outbreak undoubtedly has an impact on the process of handling access to documents requests under Regulation (EC) No 1049/2001. Given the large-scale teleworking of the Commission services, all replies, which should normally be sent via registered post, currently are sent only by e-mail. In this regard, we kindly ask you to confirm receipt of this email.

Yours faithfully,

(e-signed)

Annika KROON
Head of Unit

Enclosure: Annex A1, better described above.