



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

The Director-General

B1/RS

By registered letter with acknowledgment of receipt
Netzpolitik
Schönhauser Allee 6-7 10119 Berlin
Germany

Advance copy by e-mail:
ask+request-11117-9bb6df12@asktheeu.org

Subject: Your application for public access to documents – GestDem Ref No 2022/2378

Dear Mr. Fanta,

We refer to your letter dated 25 April 2022 in which you submitted an application for access to documents within the framework of Regulation (EC) 1049/2001¹.

1. SCOPE OF YOUR REQUEST

Following your agreement of 31 May on our proposal concerning the restriction of the scope of your request, your application concerned:

- 1. Training material, guidelines and guidance notes concerning registration and archiving criteria for text messages and/or emails;*
- 2. Guidelines, guidance notes and training material for staff on processing access to document requests; and Minutes and presentations relating to meetings on rules and practices on processing access to documents from 2019 to 2022.*

Please note that, as your initial request was also addressed to other Directorates-General as well as to the Secretariat-General of the Commission, this reply relates only to the documents held by the Directorate-General for Research and Innovation.

We have identified 16 documents falling under the scope of your request (hereinafter the 'requested documents'), namely:

1. Ares(2015)1764484 - Note_Presentationandguidelines;
2. Annex: Ares(2015)1764484 - Document Management for senior managers rev05.pptx.pdf(2);

¹ 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, 31.5.2001, p. 43) , hereinafter referred to as 'Regulation (EC) 1049/2001'.

3. Ares(2015)5139655 - e-DOMEC and ARES Trainings.
4. CLSS AtD guidelines 2021;
5. Note on handling requests for access to documents, to the attention of DG R&I Directors - Ares(2019)7120265;
6. Annex 1 template contrib op units for H1 - Ares(2019)7120265;
7. AtD@RTD - Basic Training;
8. 2017 - Handling of requests for public access to documents (H2020 General Training);
11. 17.07.2019 - A2D Coordinators – Minutes;
10. 25.11.2019 - A2D Coordinators – Minutes;
11. 16.07.2020 - A2D Coordinators – Minutes;
12. 10.12.2020 - A2D Coordinators – Minutes;
13. 02.06.2021 _ A2D Coordinators – Presentation;
14. 15.12.2021 _ A2D Coordinators – Presentation;
15. 30.03.2022 _ A2D Coordinators – Presentation;
16. 30.03.2022 - Note - Breyer judgment implementation.

2. EXAMINATION UNDER REGULATION (EC) No 1049/2001

For your convenience, a table with the list of documents containing the assessment carried out on their content on the basis of Regulation (EC) No 1049/2001 as well as the scope of your request is attached at the end of this letter (Table 1).

2.1 Full access to documents No 4, 6 and 16

We are pleased to inform you that full access can be granted to documents No 4, 6 and 16. We enclose a copy of them.

2.2 Partial access to documents from No 1 to 3, 5 and from No 7 to 16

Having examined the requested documents under the provisions of Regulation (EC) 1049/2001 and taking account of the legitimate interests of any third party concerned, partial access can be granted to documents No 1-3, 5 and 7-16. Some information has been withheld, as it concerns commercially sensitive information and personal data, as explained below.

Protection of commercial interests of a natural or legal person, including intellectual property

Article 4(2), first indent, of Regulation (EC) 1049/2001 provides that "*[t]he 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*".

Documents No 9, 11 and 15 consist in minutes and presentations relating to access to document coordination meetings and contain information on entities involved in some of

the cases presented during these meetings. As these case studies refer to the involvement of these entities in courts proceedings or to the rejection of their project costs resulting from audits, the public disclosure of their identity might undermine their commercial interests within the meaning of Article 4(2), first indent, of Regulation (EC) 1049/2001.

Article 4(2), first indent, of Regulation (EC) 1049/2001 (protection of commercial interests) applies unless there is an overriding public interest in disclosure of the documents requested. In order for such an overriding public interest to exist, this interest, firstly, has to be public and, secondly, overriding, i.e. it must outweigh the interest protected under Article 4(2), first indent. In the present case, we consider that there are no elements capable of showing the existence of an overriding public interest in disclosure of the refused documents that would outweigh the public interest in the protection of the commercial interests

Protection of privacy and the integrity of the individual

According to Article 4(1)(b) of Regulation (EC) 1049/2001, access to documents is refused where 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 data².

The requested documents contain personal data such as names, surnames, functions, telephone numbers, electronic and professional addresses of Commission's officials not having the function of senior management staff and of the third parties identified in the documents, for instance, names of applicants. This information clearly constitutes personal data in the meaning of Article 3(1) of Regulation 2018/1725.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, 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*'.

According to Article 9(1)(b) of Regulation 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 for a specific purpose in the public interest. In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

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 ('Regulation 2018/1725').

Therefore, except for the names of individuals forming part of senior management staff of the Commission, personal data have been withheld from the requested documents.

Out of scope

Please note that some parts of documents No 7 and 9 were not withheld on the basis of an exception of Regulation (EC) No 1049/2001, but because they fell outside the scope of your request. Namely, the information redacted concerned, in document No 7, trainings on document management for staff in other DGs and, in document No 9, guidance on handling access to information requests.

Disclaimer and re-use of documents

Documents from No 11 to 16 were drawn up for internal use under the responsibility of the relevant service of the Directorate-General for Research and Innovation. It solely reflects the service's interpretation of the interventions made and does not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

You may reuse the documents requested free of charge, for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

3. MEANS OF REDRESS

In accordance with Article 7(2) of Regulation (EC) 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

Secretary-General

Unit SG C.1 – Transparency, document management & access to documents

BERL 7/076

B-1049 Brussels

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

Yours sincerely,

Enclosure: requested documents expunged from information protected under Regulation 1049/2001.

Table 1 – Assessment of the requested documents under Regulation (EC) No 1049/2001 and scope of your request

<i>Documents</i>	<i>Redactions applied</i>	<i>Type of access</i>
Ares(2015)1764484 - Note_Presentationandguidelines	Personal data	Partial
Annex: Ares(2015)1764484 - Document Management for senior managers rev05.pptx.pdf(2)	Personal data	Partial
Ares(2015)5139655 - e-DOMEC and ARES Trainings	Out of scope	Partial
CLSS AtD guidelines 2021		Full
Note on handling requests for access to documents, to the attention of DG R&I Directors - Ares(2019)7120265	Personal data	Partial
Annex 1 template contrib op units for H1 - Ares(2019)7120265		Full
AtD@RTD - Basic Training	Personal data	Partial
2017 - Handling of requests for public access to documents (H2020 General Training)	Personal data	Partial
17.07.2019 - A2D Coordinators – Minutes	Personal data; Out of scope (p.1).	Partial
25.11.2019 - A2D Coordinators – Minutes	Personal data	Partial
16.07.2020 - A2D Coordinators – Minutes	Personal data; Commercial interest (p.3).	Partial
10.12.2020 - A2D Coordinators – Minutes	Personal data	Partial
02.06.2021 _ A2D Coordinators – Presentation	Personal data	Partial
15.12.2021 _ A2D Coordinators – Presentation	Personal data	Partial
30.03.2022 _ A2D Coordinators – Presentation	Personal data; Commercial interest (P.5).	Partial
30.03.2022 - Note - Breyer judgment implementation		Full