



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

The Director-General

Brussels,
fisma.a.2(2022)5728766

Ms Esther Menhard
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10119 Berlin
Germany

by e-mail: ask+request-11465-
5dc44a28@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2022/3537

Dear Ms Menhard,

We refer to your request dated 20 June 2022, in which you make a request for access to documents, registered on 20 June 2022 under the above-mentioned reference number, in which you ask for:

“All documents related to a meeting between the cabinet of Commissioner McGuinness, cabinet of executive Vice-President Dombrovskis and Binance France on 22/04/2022. My request includes e-mails, meeting minutes and other documents related to the meeting.”

The Commission services have identified the following documents:

1. E-mail meeting request - Ares(2022)3099644
2. Minutes meeting Binance 22 April 2022 - Ares(2022)3264249

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that these documents may be partially disclosed.

Following an examination of document number 1 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third party, from which the document originates, I regret to inform you that the full access to this document cannot be granted, as disclosure is prevented by the exception to the right of access laid down in the first indent of Article 4(2) of this Regulation.

The originator of the document (Binance) has been consulted in accordance with Article 4(4) of Regulation 1049/2001 with a view to assessing whether an exception provided for in Article 4 of that Regulation is applicable.

Binance has objected the disclosure of the full text of the document because *“the implementation measures referred to therein are highly commercially sensitive in terms of their proprietary risk management procedures”*.

The first indent of Article 4(2) 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.”*

The exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosure of the document. You make no mention of such an interest in your request, and we have not been able to identify it. For this reason, the access to the relevant part of this document is prevented under Article 4(2) of Regulation (EC) No 1049/2001.

Accordingly, partial access to the requested document should be granted.

In accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001, personal data have been redacted in both documents 1 and 2.

Article 9(1)(b) of the Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data 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 or 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 (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 also note that document 2 (the minutes) was drawn up for internal use under the responsibility of the relevant staff member. The document solely reflects the author's interpretation of the interventions made and does not set out any official position of the third parties, to which it refers, who were not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, 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

Yours sincerely,

Electronically signed
John BERRIGAN

Attachments: E-mail meeting request - Ares(2022)3099644 and
Minutes meeting Binance 22 April 2022 - Ares(2022)3264249.