



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

Brussels,
MB/pb/grow.ddg3.i.5(2018)

By registered letter with acknowledgment of receipt

Mr Peter Teffer
EUobserver
Rue Montoyer 18B
1000 Brussels
Belgium

Advance copy by email:

ask+request-5437-f7feb205@asktheeu.org

Subject: Your application for access to documents – Ref GestDem 2018/2193

Dear Mr Teffer,

We refer to your letter dated 18/04/2018 in which you make a request for access to documents, registered on 19/04/2018 under the above mentioned reference numbers.

You request access to:

“All documents - including but not limited to emails, presentations, agendas, and minutes of meetings - related to the Consultation Forum with industry set up in relation to the European Defence Fund.”

We have identified 13 documents that match the scope of your request. The documents identified have been listed in the document register enclosed with this letter.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I can inform you that you are granted access to document 9. Please note that this document contains personal data, in particular handwritten signatures.

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 Community legislation regarding the protection of personal data. The applicable legislation in this field is 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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing a version of the documents requested in which these personal data have been redacted.

Handwritten signatures are biometric data and there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned.

I regret to inform you that your application cannot be granted access to the rest of the documents identified in the attached document register, as the request refers to topics that all pertain to on-going policy and decision-making initiatives of the European Defence Fund (EDF). EDF is in its implementation phase with the Preparatory Action for Defence Research in an on-going work programme development- and project selection phase. Therefore, your request falls under the scope of the exception under the public access to documents regulation 1049/2001, of Article 4(3) concerning documents that relates to a matter where the decision has not been taken by the institution or even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process.

The documents you seek to obtain relate to the EU Defence and public security policy. Disclosure of the requested documents you have not been granted access to, as identified in the attached document register, would also undermine the protection of the EU defence and public security. Therefore, the exception to the right of access laid down in Article 4.1(a) of Regulation (EC) No 1049/2001 is equally applicable.

The possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001 has also been examined. Given the sensitivity of this policy sector and the risks such - even partial - disclosure may entail for the EU defence and security, such partial access should also be excluded.

According to Article 4(2) and 4(3) of Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the documents concerned, which outweighs the interest protected by the exception to the right of access. In this case we have reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

Please allow us to inform you that documents related to the Preparatory Action for Defence Research will be made public. Considering your request, relevant documents will be

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, *Commission/The Bavarian Lager Co. Ltd*, ECR 2010 I-06055.


published online in the Register of Commission Expert groups³ once and if the consultation forum is established and working.

In accordance with Article 7(2) of Regulation 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
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Lowri Evans

Annexes:

- Document register
- Document n.9

³ <http://ec.europa.eu/transparency/regexpert/>

Nr.	Type of document	Date of document	Association/Organisation/Company concerned	Reference Number	Sender	Addressee	CC	Disclosure? (Y/N/Partial)	Exception	Comments
1	Minutes of Commission internal meetings	07-06-2018	European Commission	grow.ddg2(2018)3415342	GROW-staff	HUSAK Tomasz,COMPTO UR Fabrice,EVANS Lowri,PELTOMÄKI Antti Ilmari,BRUNET Philippe, GROW-staff	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
2	Internal Working Document	13-09-2016	European Commission	grow.ddg3.1.4(2016)5707581	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
3	Internal Working Document	13-09-2016	European Commission	grow.ddg3.1.4(2016)5707581	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
4	Internal Working Document	13-09-2016	European Commission	grow.ddg3.1.4(2016)5707581	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
5	Internal Working Document	13-09-2016	European Commission	grow.ddg3.1.4(2016)5707581	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
6	Internal Working Document	13-09-2016	European Commission	grow.ddg3.1.4(2016)5707581	BRUNET Philippe	EVANS Lowri, GROW-staff	N/A	N	Idem as above	
7	Internal Working Document	30-01-2017	European Commission	grow.ddg3.1.4(2016)6280509	EVANS Lowri	HUSAK Tomasz	N/A	N	Idem as above	
8	Internal Working Document	30-01-2017	European Commission	grow.ddg3.1.4(2016)6280509	EVANS Lowri	HUSAK Tomasz	N/A	N	Idem as above	
9	Internal Commission note	30-01-2017	European Commission	grow.ddg3.1.4(2016)6280509	EVANS Lowri	HUSAK Tomasz	N/A	P	Reg (EC) No 1049/2001 Article 4.1(b)	
10	Internal Working Document	30-01-2017	European Commission	grow.ddg3.1.4(2016)6280509	EVANS Lowri	HUSAK Tomasz	N/A	N	Reg (EC) No 1049/2001 Article 4.1(a) and Article 4(3)	
11	Internal Working Document	30-01-2017	European Commission	grow.ddg3.1.4(2016)6280509	EVANS Lowri	HUSAK Tomasz	N/A	N	Idem as above	
12	External email	27-06-2017	European Commission	grow.ddg3.1.4(2017)3546629	HUSAK Tomasz	Viewpoint group	N/A	N	Idem as above	
13	Minutes of Commission internal meetings	N/A	European Commission	grow.ddg3(2018)3059166	GROW-staff	HUSAK Tomasz,COMPTO UR Fabrice,EVANS Lowri,PELTOMÄKI Antti Ilmari,BRUNET Philippe, GROW-staff	N/A	N	Idem as above	

