



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

The Director General

Brussels,  
JUST.01/AC

***By registered letter with  
acknowledgment of receipt***

Mr Peter Teffer  
c/o EUobserver  
Rue Montoyer 18B  
1000 Brussels  
Belgium

***Advance copy by email:***  
[ask+request-5854-09c9f073@asktheeu.org](mailto:ask+request-5854-09c9f073@asktheeu.org)

**Subject:           Your application for access to documents – Ref GestDem No 2018/4369**

Dear Mr Teffer,

We refer to your e-mail dated 2/8/2018 in which you make a request for access to documents, registered on 3/8/2018 under the above mentioned reference number.

You request access to:

*"documents which contain the following information:*

- all documents related to the 11-7-2018 meeting between commissioner Vera Jourova and Amazon, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- all documents related to the 25-1-2018 meeting(s) held by commissioner Vera Jourova on dual quality, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- all documents related to the 23-1-2018 meeting between commissioner Vera Jourova and Facebook, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- all documents related to the 29-11-2017 meeting between commissioner Vera Jourova and Microsoft, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*

– all documents related to the 17-11-2017 meeting between commissioner Vera Jourova and Google, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations

– all documents related to the 9-11-2017 meeting between commissioner Vera Jourova and Hospodářská komora České republiky, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations

– all documents related to the 18-10-2017 meeting between commissioner Vera Jourova and Weber Shandwick, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations

– all documents related to the 11-10-2017 meeting between commissioner Vera Jourova and IBM, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations"

After careful screening of the relevant files, these are the documents covered by your request:

meeting	documents	Ares reference
– all documents related to the 11-7-2018 meeting between commissioner Vera Jourova and Amazon, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	1. briefing 2. flash report	Ares(2018)4985022 Ares(2018)3706633
– all documents related to the 25-1-2018 meeting(s) held by commissioner Vera Jourova on dual quality, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	3. briefing	Ares(2018)757559
– all documents related to the 23-1-2018 meeting between commissioner Vera Jourova and Facebook, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	4. briefing	Ares(2018)5016784
– all documents related to the 29-11-2017 meeting between commissioner Vera Jourova and Microsoft, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	5. briefing	Ares(2018)4985999
– all documents related to the 17-11-2017 meeting between commissioner Vera Jourova and Google, including but not limited to minutes, (hand-written)	6. briefing	Ares(2018)5017086

notes, audio recordings, verbatim reports, e-mails, and presentations		
– all documents related to the 9-11-2017 meeting between commissioner Vera Jourova and Hospodářská komora České republiky, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	7. briefing	Ares(2017)5741645
– all documents related to the 18-10-2017 meeting between commissioner Vera Jourova and Weber Shandwick, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	8. Flash E. Hulicius  9. letter from Mr Libermann (NOMAD food)  10. follow-up letter DG JUST	Ares(2018)4981242  Ares(2017)5154323  Ares(2017)5457768
– all documents related to the 11-10-2017 meeting between commissioner Vera Jourova and IBM, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations	11. Briefing	Ares(2018)5016322

All briefings have been prepared for internal use and aimed at providing a factual, political and legal picture of the files that the Commissioner and her Cabinet members had to discuss with stakeholders. Their content includes therefore staff opinions and assumptions on the position of those stakeholders and of the Member States or third countries on a given topic.

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I would like to inform you that your application can be partially granted for all documents.

However, documents to which you have requested access contain personal data, in particular names, addresses and phone numbers.

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 data<sup>1</sup>.

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<sup>1</sup> Official Journal L 8 of 12.1.2001, p. 1

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>2</sup>.

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.

Concerning documents n. 4, and n. 11, some paragraphs have been redacted on the basis of the exception to disclosure set in Article 4(1)(a) third indent of Regulation 1049/2001, as we consider that its disclosure undermines the international relations with a third country.

Making available the redacted parts to the public would seriously prejudice the relations between the European Commission and the United States government in their ongoing dialogue on the protection of privacy in the context of transatlantic data transfers, and the mutual confidence between them. Establishing and protecting an atmosphere of mutual trust with the United States is a very delicate exercise and any harm to that trust cannot easily be repaired and thus can have a serious adverse effect on any ongoing dialogue as well as future cooperation.

The Commission also has a legitimate interest in not revealing its tactical considerations and other strategic elements of the past discussions as this could negatively affect its position in any future (trade) negotiations at both bilateral or multilateral (WTO/GATS) level.

A section of document n. 11 has been redacted as it concerns topics not connected with your request and therefore it must be considered as out of the scope of your request (annex at the end of the document).

Concerning documents n; 4, 6 and 11, some sections have been redacted on the basis of the exception to disclosure set in Article 4(2) second indent of Regulation 1049/2001, as they refer to and comment on ongoing Court cases. Their disclosure would undermine the proper conduct of such judicial procedures.

Redacted sections contain in fact references to court proceedings. Their disclosure would undermine the protection of on-going and reasonably foreseeable future court proceedings in that it would negatively affect the Commission ability to defend its position in Court an equal footing with the respective applicant, contrary to the principle of equity of arms.

Finally, full disclosure of documents 2, 3, 7, 8 and 10 would undermine the decision-making process of the Commission, as it would reveal the preparatory work for the negotiation strategy for the adoption of the "new deal for consumers" package, currently under discussion in European Parliament and Council.

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<sup>2</sup> 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.

Article (4)3 indicates that

*" 3. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.*

*Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure."*

The Commission's services must be able to continue their intelligence and mediation work with stakeholders and national authorities, which is essential to gather information and feedback on a number of provisions which are debated, in order to facilitate the elaboration of a final text which would meet the objectives of the proposed legislation, as well as the formulation of the official position of the Commission in the context of the co-decision procedure. Anticipating the options under consideration, would compromise solutions and the possible fallback position on key issues, as decided by the College of Commissioners. It would ultimately deprive the Commission of essential negotiating tools which enable it to fulfil its institutional role at this stage of the legislative procedure.

Therefore the exception laid down in Article 4(3) second subparagraph of Regulation (EC) No 1049/2001 applies to this document.

The exceptions laid down in Article 4(1)(b), 4(2) second indent and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the document. We have examined whether there could be an overriding public interest in disclosure, but that you have not been able to identify such an interest.

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.

In case you would disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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-C-1

BERL 5/282

B-1049 Bruxelles

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

Yours faithfully,

*(e-signed)*  
Tiina Astola