



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

The Director-General

Ref. Ares(2020) 2375356 - 05/05/2020

Brussels,
MOVE/A4/AMG/ (2020)

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40 Bermondsey Street,
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***By registered letter with
acknowledgment of receipt***

Advance copy by email : request-7797-9cf2f4ff@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2020/1588

We refer to your demand dated 16/03/2020 in which you make a request for access to documents, registered on 18/03/2020 under the above mentioned reference number.

In particular, 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:*

- 1. Between European Community Shipowner's Associations(ECSA) and member of Commissioner Adina-Ioana Vălean's cabinet Roxana Lesovici on 22/01/2020*
- 2. Between Danish Shipping and member of Commissioner Adina-Ioana Vălean's cabinet Roxana Lesovici on 22/01/2020*
- 3. Between World Shipping Council(WSC) and member of Commissioner Adina-Ioana Vălean's cabinet Roxana Lesovici on 18/02/2020”.*

In our holding reply, dated 07/04/2020, we asked an extension of time to reply to your request since requested and accordingly defined documents are held by different services of Commission services, that must be have been consulted.

We have identified one document corresponding to your request enclosed to this letter.

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission

documents¹ (hereinafter ‘Regulation (EC) No 1049/2001’), we have come to the conclusion that it may be partially disclosed. Some parts of the document have been blanked out as their disclosure is prevented by exception to the right of access laid down in Article 4 of this Regulation.

First, 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 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 data² (hereinafter ‘Regulation 2018/1725’).

In particular, Article 3(1) of Regulation 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 data.³

In its judgment in Case C-28/08 P (*Bavarian Lager*)⁴, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁵.

Article 9(1)(b) of the Regulation 2018/1725 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 nor do you put forward 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.

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, 31.05.2001, p. 43.

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, OJ L 205 of 21.11.2018, p. 39.

³ 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.

⁴ Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, EU:C:2010:378, paragraph 59.

⁵ 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 2018/1725.

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 document, 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.

Second, pursuant to Article 4(2) of Regulation (EC) No 1049/2001 the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interest of a natural or legal person, including intellectual property unless there is an overriding public interest in disclosure.

This is the case of the redacted parts of the enclosed document. The redacted parts of the document contain commercially sensitive information relating, in particular, to the business strategies of the undertakings concerned, to their commercial relations and revealing their expertise.

In particular, the redacted parts of the enclosed document include information as regards the strategy related to the use certain types of fuels in the future.

The exceptions 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. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

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,

Henrik HOLOLEI
Director-General
[e-signed]