



Brussels,
EMPL.01/BR/pm (2020)4553815

Subject: Your application for access to documents – GESTDEM 2020/4276

Dear Sir,

I refer to your request for access to documents sent via the AsktheEU.org website on 14 July 2020, registered on the same date under the above mentioned reference number.

You requested access to all documents, including but not limited to minutes, (handwritten) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations, related to the following two meetings:

- A preparatory videoconference held on 6 May 2020 between Commissioner Schmit's Cabinet members Anouk Faber, Christoph Nerlich and Santina Bertulesi with Volkswagen Aktiengesellschaft (VOLKSWAGEN AG),
- A videoconference held on 15 May 2020 between Commissioner Schmit and Cabinet members Antoine Kasel, Anouk Faber, Christoph Nerlich and Santina Bertulesi with Volkswagen Aktiengesellschaft (VOLKSWAGEN AG) on the topic of the recovery and skills.

On the first meeting listed above:

I regret to inform you that the Commission does not hold any documents that would correspond to the description given in your application.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

Mr Peter Teffer
Ekko Voorkamer
Bemuurde Weerd WZ 3
3513 BH Utrecht
The Netherlands

Advanced copy by e-mail to: ask+request-8358-9a28bdf5@asktheeu.org
[Registered letter with acknowledgement receipt](#)

On the second meeting listed above:

The following documents fall within the scope of your application:

- Briefing to Commissioner Schmit on his meeting with Gunnar Kilian (Volkswagen AG) – 14 May 2020, Ares(2020)3921067 (hereafter ‘document 1’) – by Cabinet SCHMIT (hereafter ‘document 1’).
- Flash report of the meeting of Commissioner Schmit with Gunnar Kilian (Volkswagen AG) – 18 May 2020, Ares(2020)3923519 – by DG EMPL (hereafter ‘document 2’)

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that document 1 may partially disclosed. Some parts of the document 1 have been blanked out as their disclosure is prevented by exception to the right of access laid down in Article 4(2), third indent of this Regulation.

The redacted parts of the document you seek to obtain relate to an ongoing investigation regarding a possible infringement of EU law (reference number: EUP (2016) 2180).

Disclosure of the documents requested would undermine the protection of the purpose of the ongoing investigation.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. In this case the Commission has reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

In addition, with regard to both documents 1 and 2 listed above, a complete disclosure of the identified documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;

Article 9(1)(b) of the Data Protection Regulation 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.

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 note that documents 1 and 2 were drawn up for internal use under the responsibility of the relevant official of the Directorate-General for the use of the Cabinet of Commissioner Schmit. They solely reflect the author'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.

For both meetings:

In accordance with Article 7(2) of Regulation (EC) No 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 Secretariat-General of the Commission at the following address:

European Commission


Secretariat-General

Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076

B-1049 Brussels

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

Yours faithfully,

p.o. 
Andriane Sukow
DK

Joost KORTE