



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

The Director-General

Brussels,
SANTE

**By registered letter with
acknowledgement of receipt¹**

Mr DIOGO Augusto
6/4 Silvermills EH3
5BF Edinburgh

Advance copy by email:
ask+request-9222-
b31fa16d@asktheeu.org

Dear Mr Diogo

Subject: Your application for access to documents – Ref GestDem No 2021/1807

We refer to your email dated 20 March 2021 in which you make a request for access to documents on the basis of Regulation (EC) No 1049/2001² (or ‘the Regulation’), registered on 22 March 2021 under the above mentioned reference number. We refer also to our email of 15 April 2021, extending the deadline for handling the application.

Finally we refer to our courtesy letter of 7 May 2021.

1. Scope of your request

In your request, you ask access to:

‘All documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, briefings, e-mails, and presentations - related to all meetings between member of the Commission and representatives of Business Europe from July 2020 to the present.’

2. Assessment of the documents

We have identified 9 documents falling under the scope of your request.

You will find attached a table listing the identified documents and summarising the outcome of the assessment carried out on the basis of regulation (EC) No 1049/2001.

¹ According to standard operational procedure, the reply is usually also sent to you by registered post. Please note, however, that due to the extraordinary health and security measures currently in force during the COVID-19 epidemics, which include the requirement for all Commission non-critical staff to telework, we are unfortunately not in a position to follow this procedure until further notice. We would therefore appreciate if you could confirm receipt of the present e-mail

² Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Since some documents originate from a third party in accordance with Art. 4(4) of Regulation, the originators of the documents have been consulted in order to assess whether an exception established in Article 4 applies to these documents.

Having examined the document under the provisions of Regulation (EC) No 1049/2001 and considered the opinion of the third parties, we have come to following conclusion, which is further explained below:

- full access can be granted to document 1;
- partial access can be granted to documents all 2-9 as their full disclosure is prevented by one of the exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001.

Some parts of document 7, 8 and 9 have been redacted as they fall outside the scope of your request.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

Minutes, briefings, or summary records of a meeting with external parties were drawn up for internal use under the responsibility of the relevant services of the Directorate-General for Directorate-General for Health and Food Safety. They solely reflect the services' interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which was not consulted on its content. They do not reflect the position of the Commission and cannot be quoted as such

3. Reasons for partial disclosure

Protection of the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data - Article 4(1)(b) of Regulation (EC) No 1049/2001.

With regard to documents 2-9 a complete disclosure 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;
- handwritten signatures.

Article 9(1)(b) of the Data Protection Regulation³ does not allow the transmission of such 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 any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we 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.

Therefore the above-listed documents are disclosed redacted of the parts containing personal data.

Protection of the institution, in particular in accordance with Community legislation regarding the protection of institution's decision-making process - Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

With regard to documents 8 and 9 a complete disclosure is prevented by the exception concerning the protection of institution's decision-making process pursuant to Article 4(3), first subparagraph of Regulation (EC) No 1049/2001, because they contain views and positions prepared for use by the Commission services on matters subject to internal discussions.

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. Some parts of the internal briefings (documents 8 and 9) are based on, and reflect, the services' views on matters on which policy determinations (e.g. on possible future initiatives) are not yet decided, and should not be disclosed.

Therefore, partial access is granted to documents 8 and 9.

5. Overriding public interest

The exceptions to the right of access provided for in Article 4(3) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested document. In your application, you did not submit any grounds concerning a public interest on the basis of which the interests protected by the Regulation would have to be overridden, nor could we identify any such ground. In these circumstances, we have to conclude that there is no evidence of an overriding public interest in disclosure, in the meaning of Regulation (EC) No 1049/2001.

6. Means of redress

³ 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 295, 21.11.2018, p. 39.

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 Secretary-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 Bruxelles

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

Yours sincerely,

[e-signed]

Sandra GALLINA

Enclosures: List of identified documents and disclosed documents