



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR TRADE

Directorate R – Resources, Interinstitutional Relations, Communications and Civil Society  
**Transparency, Civil Society and Communication**

Brussels  
TRADE.R.3/AH

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SPAIN

*By email only – with request for  
email acknowledgment of receipt:*  
[ask+request-11066-ff2de744@asktheeu.org](mailto:ask+request-11066-ff2de744@asktheeu.org)

**Subject: Your application for access to documents – GestDem 2022/2347**

Dear Mr Henning,

I refer to your email application dated 22 April 2022, registered on 25 April 2022 under the above mentioned reference number, in which you make a request for access to documents under Regulation (EC) No 1049/2001<sup>1</sup> ('Regulation 1049/2001').

## **1. SCOPE OF YOUR REQUEST**

In your request, you asked for access to:

*'All minutes, agendas, summaries, notes or memos issued before or after; documents prepared for, issued in preparation for, or exchanged during; as well as all correspondence including attachments by either of the meeting parties related to the 08.04.2022 meeting between Andrea Beltramello and Caroline Boeshertz and the Cobalt Institute.'*

We identified the following documents as falling within the scope of your request:

- 1 – Ares(2022)3155874: Meeting request exchange;
- 2 – Ares(2022)3155898: Meeting minutes.

## **2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001**

Having examined the requested documents under the applicable legal framework and consulted with the originator(s) of the 3<sup>rd</sup> party documents or 3<sup>rd</sup> party content respectively, I am pleased to grant you **wide access to both identified documents**, with only names and other personal data redacted. Hence, the main content of the documents relevant to your request is accessible.

Copies of the accessible documents in their redacted version are enclosed to this letter.

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents (Official Journal OJ L 145, 31.5.2001, p. 43).

In view of the objectives pursued by Regulation 1049/2001, notably to give the public the widest possible right of access to documents<sup>2</sup>, *'the exceptions to that right [...] must be interpreted and applied strictly'*<sup>3</sup>.

## **2.1. Protection of privacy and the integrity of the individual, in accordance with Article 4(1)(b) of Regulation 1049/2001**

### **2.1.1. 'Personal data'**

We disclose documents 1 and 2 partially, as certain personal data therein required to be redacted in accordance with Article 4(1)(b) of Regulation 1049/2001, namely:

- 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;
- other information relating to an identified or identifiable natural person.

In this regard Article 4(1)(b) of Regulation 1049/2001 provides that *'[t]he institutions shall refuse access to a document where 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 (EU) No 2018/1725<sup>4</sup> (hereafter 'Regulation 2018/1725' or 'Data Protection Regulation').

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.<sup>5</sup> Please note in this respect that the names, signatures, functions, email addresses, telephone numbers etc., and/or initials pertaining to staff members of an institution are to be considered personal data<sup>6</sup>, as well as those of individuals belonging to 3<sup>rd</sup> parties. As already indicated above, all three documents contain personal information such as names or other information allowing the identification of natural persons, i.e. personal data.

### **2.1.2. Question of 'transfer' of personal data and conclusion**

Article 9(1)(b) of 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 any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

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<sup>2</sup> Recital (4) of Regulation 1049/2001.

<sup>3</sup> Judgment in *Sweden v Commission*, C-64/05 P, EU:C:2007:802, point 66.

<sup>4</sup> 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.

<sup>5</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Novak v Data Protection Commissioner*, request for a preliminary ruling, points 33-35, ECLI:EU:T:2018:560.

<sup>6</sup> Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, points 43-44, ECLI:EU:T:2018:560.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to the personal data, 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.

## **2.2. Disclaimer(s)**

Please kindly pay attention to the following: you may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf, based on [Commission Decision 2011/833/EU of 12 December 2011 on the re-use of Commission documents](#)<sup>7</sup>. You may reuse the documents disclosed free of charge 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 any liability stemming from the reuse.

Please also note that documents and document content originating from 3<sup>rd</sup> parties are disclosed to you based on Regulation 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 document(s)/content without the agreement of the originator, who may hold an intellectual property right on them. Also here, the European Commission does not assume any responsibility from their reuse.

## **3. POSSIBILITY OF A CONFIRMATORY APPLICATION**

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 Secretariat-General of the Commission, either by

- email to [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu), or
- letter to the following address:

European Commission  
Secretariat-General  
'Transparency, Document Management & Access to Documents' (unit SG C.1)  
BERL 7/76  
Rue de la Loi 200/Wetstraat 200  
1049 Brussels.

Yours sincerely,

Michelangelo MARGHERITA  
Head of Unit

*Enclosures (2):* 1 – Ares(2022)3155874: Meeting request exchange (*redacted*);  
2 – Ares(2022)3155898: Meeting minutes (*redacted*)

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<sup>7</sup> OJ L 330, 14.12.2011, p. 39.