



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate D - Twin Transition, Economic & Social Affairs  
SG.D.1 - Digital Transition, Industry & Single Market

Brussels  
SG.D.1/TKV

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Belgium

By email: [ask+request-11310-6bc25059@asktheeu.org](mailto:ask+request-11310-6bc25059@asktheeu.org)

**Subject: Your applications for access to documents – GESTDEM 2022/3054**

Dear Ms Palstra,

We refer to your email of 24 May 2022 in which you make a request for access to documents pursuant to 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 (hereinafter ‘Regulation 1049/2001’), registered on 25 May 2022 under the above-mentioned reference number. We further refer to our email of 21 June 2022 informing you about the extension of the deadline, our reference Ares(2022)3947439.

By your application, you request access to:

*All documents—including but not limited to correspondence, emails, minutes, notes (hand written or electronic), audio or video recordings, verbatim reports, operational conclusions, lines to take, briefings, and presentations—related to the meeting on 2022-03-17 between Margrethe Vestager and Microsoft Corporation.*

We have identified the following documents responsive to your request:

1. *Ares(2022)2022751 Microsoft 17.03 Trade and technology council.docx*
2. *Ares(2022)1823001 Microsoft RE\_ Meet up\_Redacted*
3. *Ares(2022)2022751 Microsoft 17.03 Digital.docx\_Redacted*
4. *Ares(2022)2022751 Microsoft 17.03 Recovery and resilience facility.docx\_Redacted*
5. *Ares(2022)2022751 Microsoft 17.03 Steering brief.docx\_Redacted*
6. *Ares(2022)2022751 Microsoft 17.03 Table of contents.docx\_Redacted*
7. *Ares(2022)2126669 Microsoft Report 17.03.2022 EVP\_Redacted*

With regard to the documents identified, 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 institutions or natural persons.

Article 9(1)(b) of the Data Protection Regulation (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 neither express any particular interest to have access to these personal data, nor put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Furthermore, documents 3, 4, 5, 6 and 7 were drawn up for internal use under the responsibility of the relevant services of the European Commission. It solely reflects the author's interpretation of the interventions made and does not set out any official position of the third parties to which the documents refers, which were not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

Finally, the following documents contain information of ongoing international negotiations:  
*1. Ares(2022)2022751 Microsoft 17.03 Trade and technology council.docx.*

The disclosure of documents concerning the first meeting on EU-US Trade and Technology Council would undermine the protection of the public interests as regards international relations. It is therefore prevented by the exception laid down in Article 4(1), third indent of regulation (EC) 1049/2001.

Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001 provides that the 'institutions shall refuse access to a document where disclosure would undermine the protection of [...] the public interest as regards [...] international relations [...]'.<sup>1</sup>

The above mentioned document that falls under the scope of your request was used in the process of elaborating the EU's position on the Trade and Technology Council, as well as the overall strategies and aims for the Trade and Technology Council.

There is a concrete risk that the public disclosure of documents on this would affect the mutual trust between the EU and the US and thus undercut their relations. It should be noted that the way in which the authorities of a third country perceive the decisions of the European Union is a component of the relations established with that third country. The quality of our relations with third countries depend on that perception.

As per settled case-law, 'disclosure by the Union, to the public, of its own negotiating positions, when the negotiating positions of the other parties remain secret, could, in practice, have a negative effect on the negotiating capacity of the Union'<sup>1</sup>. The document in question was meant for internal use as a basis to establish European positions, strategies, objectives and the way forward on specific aspects of negotiations relating to the EU-US Trade and Technology Council. Disclosure of the documents could

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<sup>1</sup> Judgment of 19 March 2013 in Case T-301/10, In 't Veld v Commission, EU:T:2013:135, paragraph 125.

undermine the room for negotiation needed by the European Union and its Member States to conclude those negotiations<sup>2</sup>.

Against this background, we consider that public disclosure of that document would negatively affect both the ability of the European Commission to establish and maintain efficient and trust-based negotiating relations with the United States in the context of the Trade and Technology Council and to effectively defend EU interests in the context of the ongoing discussions within the Trade and Technology Council. We consider that risk as reasonably foreseeable and non-hypothetical, as it would reveal the institution's approaches and preferences, as well as political analysis, thus weakening its negotiation position towards its United States counterparts.

We have also examined the possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001. However, no meaningful partial access is possible once all parts of the document protected by Article 4(1)(a), third indent (protection of international relations) are redacted.

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](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Elisa Roller  
Director

Enclosure: disclosed documents

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<sup>2</sup> See also Judgment of 25 April 2007, WWF European Policy Programme v Council of the European Union, T-264/04, EU:T:2007:114, paragraph 41.