



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

Director General

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Subject: Your application for access to documents – GESTDEM 2022/4618

Dear Sir,

We refer to your request for access to documents, registered on 16 August 2022 under the above mentioned reference number.

You request access to documents held by Commissioner Reynders, his cabinet, and DG Just, concerning the Irish Data Protection Commission and Ireland's application of the GDPR during the period from the beginning of the current Commission's term to the present date.

Your application concerns the following documents:

1	a) Email from Ms H. Dixon to the Cabinet of Commissioner Reynders of 12 March 2021, Ares(2021)1853165, which includes the following annexes: b) Letter to Chair of Committee on Civil Liberties, Justice and Home Affairs, European Parliament, 09.02.2021 Ares(2021)1853165; c) Letter to Chair of Committee on Civil Liberties, Justice and Home Affairs, European Parliament, 12.03.2021, Ares(2021)1853165
2	Email from DPC to Commission of 7 December 2021, Ares(2022)1577201
3	Email from DPC to Commission of 7 December 2021, Ares(2022)1577236

4	a) Email from DPC to Commission of 21 December 2021, Ares(2021)1577319, which includes the following annex: b) DPC Regulatory Strategy 2022-2027, Ares(2021)1577319
5	Email from DPC to Commission of 29 November 2021, Ares(2022)1858757
6	Email from DPC to Commission of 13 December 2021, Ares(2022)1858761
7	a) Email from DPC to Commission of 8 March 2022, Ares(2022)6687819 with the following annexes: b) Report one-stop-shop cross-border complaint statistics 25 May 2018-31 December 2021, Ares(2022)6687819 c) Report Resource allocation audit January 2022, Ares(2022)6687819
8	Email from DPC to Commission of 7 February 2020, Ares(2022)6651374
9	DPC large-scale enquiries - October 2021
10	DPC large-scale enquiries - December 2021
11	DPC large-scale enquiries - April 2022
12	DPC large-scale enquiries - June 2022
13	Briefing document for meeting between Commissioner Reynders and H. Dixon, dd 17.11.2021
14	Minutes of meeting between Commissioner Reynders and H. Dixon, dd 18.11.2022, Ares(2022)6682126
15	Briefing document for meeting between Commissioner Reynders and H. McEntee, Irish Minister of Justice dd 10.12.2021
16	Minutes of meeting between between Commissioner Reynders and H. McEntee, Irish Minister of Justice, dd 22.12.2021, Ares(2022)93262
17	Briefing document for meeting between Commissioner Reynders and H. Dixon, dd 24.05.2022
18	Minutes of meeting between Commissioner Reynders and H. Dixon, dd 27.05.2022, Ares(2022)4003783

With regard to the documents 1-8 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;
- handwritten signatures/abbreviated signatures of 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 any 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.

Other parts of document 8 have been redacted as they are out of scope of the request.

Following an examination of documents 9-12 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the DPC, I regret to inform you that your application cannot be granted. In relation to any references in the documents to ongoing inquiries of the DPC, this information was provided to the Commission on a strictly confidential basis. The DPC's view is that this information ought not to be released in circumstances where it would risk undermining the protection of the purpose of inspections, investigations and audits, as envisaged by the exception outlined in Article 4(2) of the Regulation.

With regards to the documents 13-18 listed above, please find our detailed justification for redacting parts of the documents below.

Documents 13 and 14: Briefing document for meeting Commissioner Reynders with DPC Commissioner Helen Dixon, 17.11.2021 and minutes of that meeting

Public disclosure of the withheld sections would undermine the protection of the public interest as regards international relations, more specifically the relationship of mutual trust between the European Union and the United States in the ongoing negotiations on a Trans-Atlantic Data Privacy Framework. Article 4(1)(a) of the Regulation applies here.

Further to the invalidation of Decision 2016/1250 on the adequacy of the protection provided by the EU-U.S. Privacy Shield by the Court of Justice on 16 July 2020, the European Commission and the US Government started negotiations on a successor arrangement to the EU-US Privacy Shield to comply with the judgement of the Court¹. The European Commission has a legitimate interest not to disclose the tactical and strategic considerations it has taken in those negotiations, as that would negatively affect its negotiation position towards the United States, and, in the wider perspective, also towards other third countries that may be requesting to benefit from an adequacy finding in the future. Article 4(1)(a) of the Regulation applies here.

¹ See European Commission and United States Joint Statement on Trans-Atlantic Data Privacy Framework of 25 March 2022, available at the following link: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2087

Personal data has also been redacted (Article 4(1)(b)).

In the minutes of this meeting personal data (Article 4(1)(b)), the parts on international relations (Article 4(1)(a)) and the parts that are out of scope have been redacted.

Documents 15 and 16: Briefing document for meeting Commissioner Reynders with Irish Minister of Justice, Mrs Helen McEntee, 10/12/2021

Public disclosure of the withheld section would undermine the protection of the public interest as regards international relations. It would reveal to the public and to the European Union's international partners – in this case the United Kingdom – the European Commission's internal assessment and strategic considerations with respect to data transfers from the European Union to the United Kingdom which are currently excluded from the scope of the Commission Implementing Decision of 28/06/2021 pursuant to Regulation (EU) 2016/679 on the adequate protection of personal data by the United Kingdom. This knowledge would weaken the European Union's position towards the United Kingdom and limit its margin of manoeuvre with respect to future action. Article 4(1)(a) of the Regulation applies here.

Personal data has also been redacted (Article 4(1)(b)).

In the minutes of this meeting personal data (Article 4(1)(b)) and the parts of the document that are out of scope of the request have been redacted.

Documents 17 and 18: Briefing document for meeting between Commissioner Reynders and H. Dixon of 24/05/2022

The briefing document can be disclosed.

In the minutes of the meeting personal data (Article 4(1)(b)), data relating to ongoing investigations (Article 4(2)) and parts of the document that are out of scope of the request have been redacted.

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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

Transparency, Document Management & Access to Documents (SG.C.1)

BERL 7/076

B-1049 Bruxelles

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

Yours faithfully,

Ana Gallego
e-signed

This reply is sent to you via email only and we would appreciate if you could confirm receipt of the present e-mail by replying to JUST-C3@ec.europa.eu