



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate R - Resources, Inter-Institutional Relations, Communications and Civil Society
R.3 Transparency, Civil Society and Communications

The Head of Unit

Brussels,
R3/AG/SL (2022)6855669

Mr Olivier Petitjean
2 Impasse Delaunay
F-75011 Paris
France

By email only:
ask+request-11749-
bfa18021@asktheeu.org

Subject: Your application for access to documents – Ref GestDem 2022/4721

Dear Mr Petitjean,

I refer to your application dated 18 August 2022, in which you make a request for access to documents under Regulation (EC) No 1049/2001¹ ('Regulation 1049/2001'), registered on 22 August 2022 under the above mentioned reference number.

1. SCOPE OF YOUR REQUEST

In your request, you asked for access to:

All documentation (including but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to the meetings listed below:

- 1. Meeting between BASF and Michael Hager (Cabinet member), 13th October 2020*
- 2. Meeting between BASF and Michael Hager (Cabinet member), 7th January 2021*
- 3. Meeting between Valdis Dombrovskis and Cefic, 13th January 2021*
- 4. Meeting between Gints Freimanis (Cabinet member) and Dow Europe, 19th May 2022.*

¹ 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 (OJ L 145, 31.5.2001, p. 43).

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

In accordance with settled case law², when an institution is asked to disclose a document, it must assess, in each individual case, whether that document falls within the exceptions to the right of public access to documents set out in Article 4 of Regulation 1049/2001. Such assessment is carried out in a multi-step approach:

- first, the institution must satisfy itself that the document relates to one of the exceptions, and if so, decide which parts of it are covered by that exception;
- second, it must examine whether disclosure of the parts of the document in question poses a '*reasonably foreseeable and not purely hypothetical*' risk of undermining the protection of the interest covered by the exception;
- third, if it takes the view that disclosure would undermine the protection of any of the interests defined under Article 4(2) and Article 4(3) of Regulation 1049/2001, the institution is required '*to ascertain whether there is any overriding public interest justifying disclosure*'³.

In view of the objectives pursued by Regulation 1049/2001, notably to give the public the widest possible right of access to documents⁴, '*the exceptions to that right [...] must be interpreted and applied strictly*'⁵.

In reply to your request, I can inform you that we have identified **seven documents** that fall within the scope of your request:

Having examined the requested documents under the applicable legal framework, I am pleased to grant you partial access to all seven documents. Copies of the accessible documents are enclosed to this letter.

A complete disclosure of the 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 some or all of 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;
- other information relating to an identified or identifiable natural person.

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

² Judgment in *Sweden and Maurizio Turco v Council*, Joined cases C-39/05 P and C-52/05 P, EU:C:2008:374, paragraph 35.

³ *Id.*, paragraphs 37-43. See also judgment in *Council v Sophie in 't Veld*, C-350/12 P, EU:C:2014:2039, paragraphs 52-64.

⁴ See Regulation 1049/2001, recital (4).

⁵ Judgment in *Sweden v Commission*, C-64/05 P, EU:C:2007:802, paragraph 66.

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.

Documents 2, 3, 5 and 7 were drawn up for internal use under the responsibility of the relevant officials of the Cabinet of Executive Vice-President Dombrovskis. They solely reflect the author's interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer, which were not consulted on their content. They do not reflect the position of the Commission and cannot be quoted as such.

3. MEANS OF REDRESS

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.

Yours sincerely,

Annette Grünberg (acting)

Encl.: List of documents
7 documents (partially released)