Subject: Your application for access to documents – No 2023/4602

Dear Ms VAUGHAN,

We refer to your e-mail of 2 August 2023 in which you make a request for access to documents, registered on the same day under the above mentioned reference number.

You request access to:

“All documentation, including but not limited to attendance lists, agendas, background papers, minutes/notes and email correspondence about or summarising, the following meetings:

- Between BusinessEurope and Didier Reynders on 25/05/2023
- Between BusinessEurope and Ana Gallego on 27/06/2022
- Between BusinessEurope and cabinet members of Didier Reynders on 19/11/2020.”

Your application concerns the following documents:

- Briefing for the meeting with BusinessEurope on 25 May 2023 – CAB REYNDERS/1798.
- Email exchanges with BusinessEurope (Ares(2023)7997224 of 23 November 2023).
- Briefing for the meeting with BusinessEurope on 27 June 2022 – JUST/2140.
- Letter from BusinessEurope on Due Diligence and Sustainable Corporate Governance: follow up video-call 7 October (CAB REYNDERS/447)
Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we regret to inform you that full disclosure of the identified documents is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

1. Protection of privacy and the integrity of the individual

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 the following personal data:

- the names/initi alis and contact information of Commission staff members not pertaining to the senior management;
- the names/initi als and contact details of other natural persons.

In your application, you indicate that your address is in the United Kingdom. Transfers of personal data from the Commission to countries that are not members of the European Economic Area (EEA), or to international organisations are regulated under Chapter V of the Data Protection Regulation.

According to Article 47(1) of this Regulation, a transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that country, or the international organisation in question ensures an adequate level of protection and where the personal data are transferred solely to allow tasks within the competence of the controller to be carried out.

Based on the information available, the country of your residence is recognised by the Commission as ensuring an adequate level of protection. However, we would further like to inform you that 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, 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.

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2. Protection of ongoing infringement cases

A complete disclosure of the briefing with reference number CAB REYNERS/1798 is also prevented by the exception concerning the protection of ongoing investigations regarding a possible infringement of Directive (EU) 2019/1937 on whistleblower protection. A full disclosure of the document at this point in time would affect the climate of mutual trust between the authorities of the Member States and the Commission. Therefore, the exception laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001 applies to this document.

The exceptions laid down in Article 4(2) of this Regulation shall apply unless there is an overriding public interest in disclosure of the document. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure. In your request, you do not provide any justification for an overriding public interest in disclosure of the requested document.

Furthermore, on the basis of the evidence at our disposal, we have not been able to establish that there is an overriding public interest in the disclosure of the document in question. In any event, we consider that the public interest is better served in this case by ensuring that the procedure is concluded in a calm manner without jeopardising the dialogue between the Commission and the Member States concerned, for which, as stated above, a climate of trust is essential.

We therefore consider that there is no overriding public interest which outweighs the public interest in safeguarding the protection of the purpose of investigations as set out in Article 4(2), third indent, of Regulation 1049/2001.

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by mail:

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