



**EUROPEAN COMMISSION**  
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Director-General

24 JUL. 2014

Brussels,  
ENTR/F5/JA/mm ares(2014)2292772

Simon Pike

**Subject: Your application for access to documents – Ref GestDem  
No 2014/2413**

Dear Mr Pike,

We refer to your e-mail dated 13/05/2014 in which you make a request for access to documents, registered on 15/05/2014 under the above mentioned reference number.

Your application concerns:

*Documents of the TCAM committee for meetings held since 1 January 2012*

This corresponds to 120 documents listed in Annex I:

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that they may either be fully disclosed, partially or not disclosed.

**1. Full disclosure**

86 documents, as indicated in the annex, are being disclosed in their entirety.

As documents 23, 25, 42, 43, 69, 75, 76, 78, 83, 102, 103 are third-party documents, pursuant to Article 4(4) of Regulation (EC) No 1049/2001 where it was unclear that the documents could or could not be disclosed the Commission has consulted the third parties. The third parties consulted have either agreed to the Commission disclosing the documents or did not react within the consultation period but their legitimate interests were taken into account by the Commission.

## **2. Partial disclosure (personal data expunged)**

Documents referred to under 3, 8, 15, 39, 40, 47, 48, 49, 50, 51, 55, 58, 62, 63, 72, 74, 79, 80, 81, 84, 85, 92, 93, 98, 99, 100, 101, 105 and 111, to which you have requested access, contain personal data, in particular the names and e-mail addresses of other persons than the Commission personnel.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>1</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>2</sup>. According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

## **3. Non-disclosure**

Disclosure of 34 documents is prevented by exception to the right of access laid down in Article 4 of the Regulation:

1. Documents 4, 5, 6, 7, 82, 87, 88, 89, 95, 108 include information on the implementation of mobile telephone anti-theft measures; disclosure of related documents could affect public security in accordance with Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.
2. Documents 10, 11, 12, 112, 113, 117 and 118 contain commercially sensitive business information of particular companies. This information is not publicly available. Disclosure of these parts would undermine the protection of commercial interests of a legal person in accordance with Article 4(2) first indent of Regulation (EC) No 1049/2001.
3. Documents 9, 13, 26, 67, 87, 88, 89, 95, 104, 108, 114, 115 and 116 include sensitive information relative to the enforcement of legal provisions by Member States. Disclosure of such information would affect the purpose of inspections in accordance with Article 4(2) third indent of Regulation (EC) No 1049/2001.
4. Documents 33 and 120 include preliminary drafts of implementing measures subject to the opinion of Member States and the comments of Member States of such drafts.

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<sup>1</sup> OJ L 8 of 12.1.2001, p. 1

<sup>2</sup> Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-05885



Disclosure of this information could affect the decision-making process of the Commission in accordance with Article 4(3) of Regulation (EC) No 1049/2001.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. In this case I have reached the conclusion that there appears to be no overriding public interest in its disclosure in the sense of the Regulation, as the public interest in making the content of all those documents public does not outweigh the harm the disclosure would cause to the interests protected by the invoked exceptions.

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 Secretary-General of the Commission at the following address:

European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/327  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

*16. Gmies*

Encl.: Document register