



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Director-General

Brussels, **10 JAN. 2019**
MOVE/HH

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Subject: Your application for access to documents – Ref GestDem No 2018/5829

Dear Sir,

I refer to your e-mail dated 31/10/2018 in which you make a request for access to documents, registered on 07/11/2018 under the above-mentioned reference number and our e-mail of 26/11/2018 in which you request access to documents concerning:

– all documents related to meetings between officials from DG MOVE and representatives of Waymo (Alphabet), Uber, Tesla, Lyft, Apple, GM, Daimler-Bosch, Ford, Volkswagen, BMW-Intel-FCA, Aptiv, Renault-Nissan-Mitsubishi Alliance, Volvo-Autoliv-Ericsson-Zenuity or PSA on the issue of self-driving cars and autonomous driving since October 2017. This includes but is not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations

Regarding your request, I would like to inform you that we have identified two documents listed below and attached in annex:

- Minutes of a meeting between DG MOVE and Uber on 18 July 2018
- Minutes of a meeting between DG MOVE and Ford on 19 July 2018

Having examined the documents identified under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that they may be partially disclosed. Some parts of the documents have been blanked out as some parts are not directly linked to the scope of your request and other parts are blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The redacted parts of the documents contain commercially sensitive business information, the protection of personal data as well as information regarding international relations.

The institutions shall refuse access to a document where disclosure would undermine the protection of:

- Article 4(1) (a) third indent " international relations"
- Article 4(1) (b) protection of personal data
- Article 4(2), first indent] "commercial interests of a natural or legal person, including intellectual property".

The exceptions laid down in Article 4(1) and 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but that we have not been able to identify such an interest.

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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ('Regulation 2018/1725').

The documents to which you request access contain personal data, in particular the names of those present.

Indeed, Article 3(1) of Regulation 2018/1725 provides that personal data 'means any information relating to an identified or identifiable natural person [...]'. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.

In its judgment in Case C-28/08 P (Bavarian Lager) , the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable

Pursuant to Article 9(1)(b) of Regulation 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if '[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not

have to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to the personal data, 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.

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 Secretariat-General of the Commission at the following address:

European Commission
Secretary-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 5/282

B-1049 Bruxelles

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

Yours faithfully,

A handwritten signature in black ink, consisting of stylized vertical strokes followed by a circular loop and a long, sweeping horizontal stroke extending to the right.

Henrik HOLOLEI

