



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES
Industrial Transformation and Advanced Value Chains
Automotive and Mobility Industries
Head of Unit

15. 10. 2019

Brussels,
GROW C4/SPR/cds(2019)6569758

*By registered letter with
acknowledgment of receipt*

Mr Thomas Spekschoor
Wetstraat 155 Box 92
1040 Brussels

Advance copy by email:
[ask+request-7131-](mailto:ask+request-7131-9cf74ecb@asktheeu.org)
9cf74ecb@asktheeu.org

Subject: Requests for access to documents – GestDem No. 2019/4311 – First reply

Dear Mr Spekschoor,

Thank you for your e-mail of 31 July 2019 which was registered at the Internal Market, Industry, Entrepreneurship and SMEs Directorate-General of the European Commission on the same day, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

1. SCOPE OF YOUR REQUEST

Your e-mail requested access to documents as follows:

- “- A list of meetings of the European Battery Alliance*
- All minutes of the meetings of the European Battery Alliance*
- All documents related to the meetings of the European Battery Alliance”*

Following a precision request sent on 16 July and your reply received on 30 July, the timeframe of the request has been set to be 1 October 2017 - 12 July 2019.

When searching for relevant documents, we have understood “meetings of the European Battery Alliance” to refer to the High Level Meetings on Battery Development and Production in Europe which are chaired by Vice President Šefčovič. These meetings took place on 11 October 2017, 12 February 2018, 15 October 2018 and 30 April 2019. The European Battery Alliance is the name of the initiative launched by the Commission to support the development of a complete battery value chain in Europe.

A number of documents related to the meetings of the European Battery Alliance is available on the web site https://ec.europa.eu/growth/industry/policy/european-battery-alliance_en. In this reply we thus do not list the documents which are already in the public domain.

Please note that we are still in the process of identifying relevant documents and carrying out third-party consultations. Thus we will send you a second reply at a later stage. We apologise for any inconvenience this may cause.

2. DESCRIPTION OF DOCUMENTS IDENTIFIED

For this first batch of documents, we have identified 181 documents that match the scope of your request. The list of these documents is in annex.

3. DISCLOSURE OF DOCUMENTS

All 181 documents are disclosed.

Documents 82-89 and 158 originate from third parties. I can confirm that DG Internal Market, Industry, Entrepreneurship and SMEs has consulted according to Article 4, paragraph 4 of Regulation 1049/2001 the third parties with a view to assessing whether an exception in paragraph 1 or 2 is applicable, and has obtained their permission to release the documents.

Please note that the documents received from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

The other documents originate from the European Commission. You may reuse the documents free of charge for non-commercial and commercial purposes provided that the source is acknowledged, and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse¹.

The documents to which you have requested access contain personal data, in particular names, functions, address details and signatures.

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 (EU) 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

¹ See the Decision of the Commission of 12 December 2011 (2011/833/EU), OJ L 330/39 of 14 December 2011 for details; this Decision does not apply to documents for which third parties hold the copyrights, Article 2 (2) (b).

agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC² ('Regulation 2018/1725')

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.³

Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data.⁴

In its judgment in Case C-28/08 P (*Bavarian Lager*)⁵, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁶

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.

² Official Journal L 205 of 21.11.2018, p. 39.

³ Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](#).

⁴ Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, paragraphs 43-44, [ECLI:EU:T:2018:560](#).

⁵ Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, [EU:C:2010:378](#), paragraph 59.

⁶ Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

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 (EC) No 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.

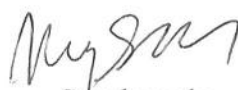
As to the handwritten signatures, which are biometric data, there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned.

In case you would disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, 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
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 sincerely,


Joanna Szychowska

Annexes: Document register
Zipped file containing 181 documents