



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR DEFENCE INDUSTRY AND SPACE

The Director-General

Brussels,  
GROW/03/LB

By registered letter with  
acknowledgment of receipt:

Mr Bram Vranken  
Vredesactie  
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Belgium

Advance copy by email:  
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**Subject: Your application for access to documents – Ref GestDem No  
2019/6093**

Dear Mr Vranken,

I refer to your request for access to documents sent via the AsktheEU.org website on 25/10/2019, registered on 28/10/2019 under the above mentioned reference number.

**1. Scope of your request**

You requested access to:

*“- All documents - including but not limited to e-mails, reports, minutes, etc. - relating to meetings between DG Growth officials and/or representatives (including the Commissioner and the Cabinet) and representatives of the company Atos SE.*

*- All correspondence (including emails) between DG Growth officials and/or representatives (including the Commissioner and the Cabinet) and representatives of the company Atos SE.”*

In your reply to our clarification request you indicate that you *“would like to receive all documents dating back to 01 November 2014.”*

In view of the above, we have identified the following documents as falling within the scope of your request:

- 1) Briefing note, meeting between DG GROW and ATOS, 9 October 2015 (Ares(2015)4198265);
- 2) Flash report, meeting between DG GROW and ATOS, 13 October 2015 (Ares(2019)7214865);
- 3) Mission report, visit ATOS in Paris, 18 July 2016 (Ares(2019)7214865);
- 4) Minutes, meeting with ATOS on 20 October 2016 (Ares(2019)7214865);
- 5) Report publicly available published on 10 November 2016 (Ares(2016)6355842), [https://www.copernicus.eu/sites/default/files/2018-10/Copernicus\\_SocioEconomic\\_Impact\\_October\\_2016\\_0.pdf](https://www.copernicus.eu/sites/default/files/2018-10/Copernicus_SocioEconomic_Impact_October_2016_0.pdf)
- 6) Report publicly available published on 29 November 2016 (Ares(2016)6672218) [https://urldefense.com/v3/https://www.copernicus.eu/sites/default/files/2019-02/PwC\\_Copernicus\\_Market\\_Report\\_2019\\_PDF\\_version.pdf;!NW73rmyV52c!VpV-KoqlmoGyGaxTWK8BzYxqWwVZZIMHbg51TrY6tnRUZIg1ddrqum7NGO5gVvWr9oIGUiwIS](https://urldefense.com/v3/https://www.copernicus.eu/sites/default/files/2019-02/PwC_Copernicus_Market_Report_2019_PDF_version.pdf;!NW73rmyV52c!VpV-KoqlmoGyGaxTWK8BzYxqWwVZZIMHbg51TrY6tnRUZIg1ddrqum7NGO5gVvWr9oIGUiwIS)
- 7) Briefing note, meeting between DG GROW and ATOS, 9 June 2017 (Ares(2017)2900049).

Please find enclosed the list of documents identified in Annex 1.

Having examined the documents referred above under the provisions of Regulation (EC) No 1049/2001<sup>1</sup> regarding public access to documents, I have come to the conclusion that documents indicated in points 1, 2, 3, 4 and 7 may be partially disclosed. Some parts of those documents have been blanked out as their disclosure is prevented by exception concerning protection of privacy and the integrity of an individual as laid down in Article 4(1)(b) of the Regulation No 1049/2001.

The documents indicated in points 5 and 6 above, are publicly available under the links provided.

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

## **2. Protection of privacy and the integrity of the individual**

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

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

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 agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC<sup>2</sup> ('Regulation 2018/1725').

The documents to which you request access contain personal data, in particular names, signatures, functions and contacts of internal and external individuals.

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<sup>3</sup>.

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<sup>4</sup>.

In its judgment in Case C-28/08 P (*Bavarian Lager*)<sup>5</sup>, 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<sup>6</sup>.

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

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<sup>2</sup> Official Journal L 205 of 21.11.2018, p. 39.

<sup>3</sup> 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](#).

<sup>4</sup> 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](#).

<sup>5</sup> 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.

<sup>6</sup> 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

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 (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 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 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 Bruxelles, or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

e-signed  
Timo PESONEN

Enclosure: Annex 1 and 5 documents