



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL

JOINT RESEARCH CENTRE  
The Director-General

Brussels,  
JRC A4/CRS/Ares(2020)

*By registered letter with  
acknowledgment of receipt<sup>1</sup>*

Mr Mathias Schindler  
Bundestagsbüro Julia Reda  
MdEP Unter den Linden 50  
DE-11011 Berlin

*Sent by pdf only to:*  
[ask+request-8101-b1e2c6e5@asktheeu.org](mailto:ask+request-8101-b1e2c6e5@asktheeu.org)

Dear Mr Schindler,

**Subject: Your application for access to documents – Ref. GestDem No 2020/3498**

We refer to your application dated 8th June 2020, sent via the AsktheEU.org website, in which you make a request for access to documents under Regulation (EC) No 1049/2001 regarding public access to documents<sup>2</sup>, registered on 9<sup>th</sup> June 2020 under the above-mentioned reference number.

**1. SCOPE OF THE REQUEST**

You indicate "*Palantir Technologies, Inc. is a private company supplying products and services*" and request access to "*any information related to Palantir and its products and services, including:*

*a) Meeting records (drafts, memos, invitations, appointments, cancellations) involving Palantir officials and people representing Palantir and their interests.*

*b) Correspondence (including within the [Authority name] and with the European institutions concerning Palantir technologies and /or its products and services or the regulatory environment of the EU that affects their products and services. This may include policy papers, consultation input, memoranda or any other form of information.*

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<sup>1</sup> According to standard operational procedure, the reply is usually also sent to you by registered post. Please note, however, that due to the extraordinary health and security measures currently in force during the COVID-19 epidemics, which include the requirement for all Commission non-critical staff to telework, we are unfortunately not in a position to follow this procedure until further notice. We would therefore appreciate if you could confirm receipt of the present e-mail.

<sup>2</sup> Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

c) Invoices, tenders, service agreements, purchases, orders, procurement documents, offers, etc. concerning products and services using Palantir Technologies.

Please do not transfer this request to another Authority, this is a request specifically for you. Do not exclude short-lived documents or documents considered to be unimportant under archiving rules.

Please ensure that information that is considered to be exempt for access for this request is not automatically deleted within to make sure that subsequent confirmatory applications and legal appeals as well as Ombudsman office inquiries can still access and assess them".

I consider your request to cover documents held up to the date of your initial application, i.e. 8<sup>th</sup> June 2020.

Please note that due to the wide scope of your requests, which you have equally addressed to other Directorates-General of the Commission, covering also areas falling under their responsibility, you will receive the replies from the other Directorates-General separately. This reply relates only to the documents held by the Joint Research Centre.

## 2. IDENTIFICATION AND ASSESSMENT OF THE DOCUMENTS

We have identified 6 documents falling under the scope of your request:

1. The public report "The Future of Government 2030+: A Citizen-Centric Perspective on New Government Models" (JRC115008);
2. Ares(2013)3278661 Tender Specifications JRC/KRU/2013/E.7/0037/NP dated 02/04/2013;
3. Ares(2014)142754 ITDB-Web INF 1<sup>st</sup> Quarterly Progress Report dated 16/01/2014;
4. Ares(2020)3432364 ITDB-Web INF 2nd Quarterly Progress Report dated 22/04/2014;
5. Ares(2020)3432413 ITDB-Web INF 3rd Quarterly Progress Report dated 16/07/2014;
6. Ares(2013)3278661 Contractor's Tender of 23/05/2013.

Having examined these documents under the provisions of Article 4 of Regulation (EC) N°1049/2001, we have come to the following conclusion:

- 1 document can be fully provided (document n° 1) corresponding to point b) above of your request, i.e. *'any other form of information concerning Palantir technologies and /or its products and services or the regulatory environment of the EU that affects their products and services'*;
- 4 documents can be partially disclosed (documents n° 2, 3, 4 and 5) corresponding to point c) of your request, i.e. *'tenders, procurement documents concerning products and services using Palantir Technologies'*;
- Access to 1 document must be refused (document n° 6) corresponding to point c) of your request, i.e. *'tenders, procurement documents, offers concerning products and services using Palantir Technologies'*;

Document n°1 consists of a JRC publication, which is publicly accessible via the internet <https://eufordigital.eu/library/the-future-of-government-2030-a-citizen-centric-perspective-on-new-government-models/>.

Documents n° 2, 3, 4, 5 and 6 belong to the same procurement procedure entitled *Development of Incident and Trafficking Database (ITDB) online Incident Notification Forms (Web-INF) System*, an information system from the International Atomic Energy Agency (IAEA).

The software application developed facilitated the entry and encrypted submission of ITDB related information to the ITDB Secretariat by participating States. The aim was to progress the pilot programme of the software tool WebINF into a fully functioning system in line with the IAEA and participating States requirements. Among those, there was consideration on the secure transmission of information between the Member State and IAEA. The proper integration of the WebINF data collected into the Agency's information systems, including ITDB system, appropriate clearances and Palantir systems, had to be facilitated. Enhancing the usefulness of the ITBD Database would improve the reporting of the incidents.

Summarising the outcome of the assessment carried out on the basis of Regulation (EC) No 1049/2001, documents n° 2, 3, 4 and 5 are partly accessible, and the disclosure of document n° 6 is refused. All these reasons are explained in point 3. *Legal Analysis* hereunder.

We would like to draw your attention to the fact that parts of documents n° 3, 4 and 5 were jointly prepared by the Commission, the Contractor and IAEA, to be used by IAEA. They are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the Commission Decision on the reuse of Commission documents. You may reuse the documents disclosed free of charge and 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 reuse.

### **3. LEGAL ANALYSIS**

The legal analysis below focuses on the list of derogations in Article 4 of Regulation (EC) No 1049/2001.

#### **3.1. Reasons for partial disclosure**

##### *3.1.1. Article 4(1)(b) of Regulation (EC) No 1049/2001 – Protection of privacy and the integrity of the individual*

Personal data were redacted in documents n° 2, 3, 4, and 5. They were the sole redactions in documents 2, 3 and 5.

With regard to those documents, a complete disclosure of the identified 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, initials and handwritten abbreviated signatures of Commission staff members not pertaining to the senior management;
- the names of other natural persons.

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.

*3.1.2. Article 4(1)(a) first indent of Regulation (EC) No 1049/2001 – Protection of the public interest as regards public security*

A paragraph in document n° 4 has been redacted under the exception concerning the protection of the public interest as regards public security outlined in Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

The part relates to security aspects' containing a confidential detailed description on which type of information is contained in IAEA's illicit and trafficking database (ITDB). Access to the ITDB system is limited to national focal points of IAEA's Member States. IAEA's ITDB database lists cases of illicit activities with radioactive/nuclear material, and its development is certainly sensitive. Disclosing security aspects may result in the information reaching ill-intentioned individuals and therefore jeopardise the public security.

**3.2. No disclosure: Article 4(2) first indent of Regulation (EC) No 1049/2001 – Protection of commercial interests of a natural or legal person, including intellectual property**

I regret to inform you that access to one of the documents identified cannot be granted (document n° 6), as disclosure is prevented by the exception to the right of access laid down in Article 4(2) of this Regulation.

Document n°6 consists of the Contractor's Tender of 23/05/2013 in the procurement procedure launched in 2013 regarding the Project Incident and Trafficking database (ITDB) of IAEA. ITDB system records incidents of illicit trafficking in nuclear and other radioactive material. In fact, it consists of the tender submitted by the winner which is annexed to the procurement contract. The received tender is also not accessible as it presents consideration on commercially sensitive business information of the company that submitted it. Disclosure of such document would undermine the protection of its commercial interests, as putting this information in the public domain would affect its competitive position on the market. Therefore the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to this document.

We have considered whether partial access could be granted to it. It is, however, not possible to grant access to an expunged version of said document, as it is entirely covered by the exception.

**OVERRIDING PUBLIC INTEREST**

The exception to the right of access provided for in Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested documents. In your application, you did not submit any grounds concerning a public interest on the basis of which the interests protected in Regulation (EC) No 1049/2001 would have to be overridden.

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  
Transparency, Document Management and Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles

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

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'S. Quest'.

Stephen QUEST

Enclosures: nr. 5 disclosed documents

