



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND
TECHNOLOGY

The Director-General

Brussels,
CNECT/R4

Mr Samuel Stolton
EURACTIV Brussels
International Press Centre
Boulevard Charlemagne 1
1041 Brussels
BELGIUM

Advance copy by email to:
ask+request-9109-ef474bfa@asktheeu.org

REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your request for public access to documents – GestDem 2021/0860

Dear Mr Stolton,

I refer to your request for access to documents pursuant to 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 documents¹ (hereinafter ‘Regulation 1049/2001’), introduced via the Register of Commission Documents on 18 February 2021, and registered on the same date under the above-mentioned reference number. I also refer to the acknowledgement of receipt provided to you also on the same date, our reference Ares(2021)1351742, and to our holding replies of 11 March 2021, Ares(2021)1775215, and of 7 April 2021, Ares(2021)2370606.

I. SCOPE OF YOUR REQUEST

You have requested public access to documents under Regulation 1049/2001 as follows:

‘All documentation (including but not limited to: general communications of any nature, written material of any kind, email correspondences, attendance lists, agendas, background papers, briefing papers, transcriptions of meetings, readouts of meetings, summaries of meetings, briefings for meetings, any written material whatsoever) containing references to “Hikvision.”’.

¹ Official Journal OJ L 145, 31.5.2001, p. 43.

II. IDENTIFIED DOCUMENTS

Based on your description, we have identified the following documents as falling under the scope of your above application:

- 1) EU-US INFSO dialogue briefing, Basis CNECT/8565 – **Document 1**;
- 2) Invitation email – cnect.h.2(2021)1808169 – **Document 2**;
- 3) Briefing – cnect.h.2(2021)1639995 – **Document 3**;
- 4) Digital Single Market Emerging Technologies in Electronic Components and Systems (ECS) – Opportunities Ahead – Annexes, doi 10.2759/46971 – ISBN 978-92-76-17501-8 – **Document 4**;
- 5) Feedback F530171 to the Consultation on the White Paper on Artificial Intelligence – A European Approach – AIConsult2020: Hikvision’s public reply to the questionnaire, Ares(2020)3356914 – **Document 5**;
- 6) Briefing for EVP Vestager – First EU-China High Level Digital Dialogue, Ares(2020)7622433 – **Document 6**;
- 7) Study to Support an Impact Assessment of Regulatory Requirements for Artificial Intelligence in Europe, Ares(2020)7622433 – **Document 7**;
- 8) Study SMART 2011-0035, Annex 2: Visualization Simulation and Visual Computing technologies EU position and future potential, Ares(2013)386560 – **Document 8**.

III. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

A. Full disclosure

We enclose a copy of **Documents 4, 5, 7 and 8** requested.

Please note that **Documents 4, 5 and 7** are available also online:

Document 4 is online published and accessible under: <https://ec.europa.eu/digital-single-market/en/news/emerging-technologies-electronic-components-and-systems-ecs-opportunities-ahead-0>.

Document 5 is online published and accessible under: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12270-White-Paper-on-Artificial-Intelligence-a-European-Approach/public-consultation>.

Document 7 is online published and accessible under: <https://digital-strategy.ec.europa.eu/en/library/study-supporting-impact-assessment-ai-regulation>.

B. Partial disclosure

With regard to **Documents 2 and 3**, a complete disclosure of the identified documents is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001, as set out below under points 1, 2 and 3.

Furthermore, please note that parts of **Document 3** do not relate to your application and were therefore redacted as being out of the scope of your request.

C. Non-disclosure

With regard to **Documents 1 and 6**, I regret to inform you that access may not be granted, as disclosure of the identified documents is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001, as set out below under points 2 and 3.

1. Protection of commercial interests

Article 4(2), first indent of Regulation 1049/2001 provides that the Commission *'shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, [...], unless there is an overriding public interest in disclosure'*.

In **Document 2**, the parts redacted contain commercially sensitive information of the third-party being the originator of these parts of the document.

Public disclosure of this specific information would seriously undermine the third party's commercial interests and negatively affect its competitive position on the market. There is a real and non-hypothetical risk that public access to the above-mentioned information would undermine the commercial interests of the entity addressed by the requested document.

We therefore conclude that access to these parts of the requested document has to be refused based on the exception relating to the protection of commercial interests as laid down in Article 4(2), first indent of Regulation 1049/2001.

2. Protection of privacy and the integrity of the individual (protection of personal data)

Article 4(1)(b) of Regulation 1049/2001 provides that the Commission *'shall refuse access to a document where disclosure would undermine the protection of [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data'*.

In case of **Documents 2, 3 and 6**, 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 1049/2001, because they contain the following personal data:

- the names/initials and contact details of natural persons other than Commission staff members; or
- other information relating to identified or identifiable natural persons.

Article 9(1)(b) of the Data Protection Regulation² 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 put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Therefore, we conclude that, pursuant to Article 4(1)(b) of Regulation 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 as 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.

² 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, OJ L 295, 21.11.2018, p. 39.

3. Protection of international relations

Article 4(1)(a), third indent of Regulation 1049/2001 provides that the Commission '*shall refuse access to a document where disclosure would undermine the protection of [...] international relations*'.

In relation to **Document 1** and **6** respectively, your application may not be granted, as disclosure of the identified document is prevented by the exception concerning international relations provided for in Article 4(1)(a), third indent of Regulation 1049/2001, because it contains sensitive information regarding the EU-US relations (**Document 1**) and the EU-China relations (**Document 6**) respectively.

Public disclosure of this specific information would undermine the international relations of the Commission and the European Union in relation to the United States of America (**Document 1**) and to China (**Document 6**).

We therefore conclude that access to **Documents 1** and **6** has to be refused based on the exception relating to the protection of international relations as laid down in Article 4(1)(a), third indent of Regulation 1049/2001.

We have considered, whether partial access could be granted to **Document 1** and/or **Document 6** respectively. However, we have come to the conclusion that **Documents 1** and **6**, as far as falling under the scope of your application, are entirely covered by the above Article 4 exception.

IV. NO OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exception of Article 4(2) of Regulation 1049/2001 referred to above applies, unless there is an overriding public interest in disclosure of the documents in question. Such an interest must be public and outweigh the harm caused by disclosure.

We have examined whether there could be an overriding public interest in disclosure, but that we have not been able to identify any such interest.

V. DISCLAIMER AND RE-USE OF DOCUMENTS

Kindly pay attention to the following: You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf, based on [Commission Decision 2011/833/EU of 12 December 2011 on the re-use of Commission documents \(OJ L 330, 14.12.2011, p. 39-42\)](#). You may reuse the enclosed redacted and not redacted documents 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 documents. Please note that the Commission does not assume any liability stemming from the reuse.

Please also pay in all cases attention to any specific disclaimers displayed in the specific documents or applicable to any content in the documents originating from third parties. Disclosure of documents is therefore without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of their originator(s), who may hold an intellectual property right on them. The European Commission does not assume any responsibility from the reuse of documents originating from third parties.

VI. POSSIBILITY OF A CONFIRMATORY APPLICATION

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
Unit 'Transparency, Document Management & Access to Documents' (SG.C.1)
BERL 5/282
1049 Brussels
BELGIUM,

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

Yours sincerely,

(e-Signed)

Roberto Viola

Enclosures: 6