



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

The Director-General

Brussels,  
CONNECT/R4

Ms Sophie Petitjean  
Résidence Palace  
Rue de la Loi, 155  
1040 Bruxelles  
Belgium

*Advance copy via email:*  
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## **REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT**

**Subject: Your application for access to documents - RefGestDem 2021/5202**

Dear Ms Petitjean,

We refer to your email dated 25 August 2021 wherein you make a 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 documents (hereinafter 'Regulation 1049/2001'), registered on the same day under the abovementioned reference number. We also refer to our email, dated 15 September 2021, our reference Ares(2021)5658310, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation 1049/2001.

### **1. SCOPE OF YOUR APPLICATION**

Your request reads as follows:

*'' Dear Communications Networks, Content and Technology,*

*Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am interested in the information received by DG connect about the efficiency of national contact tracing and warning applications and the European Federation Gateway Service (which connects the backends of 17 national apps).*

*I'm particularly interested in potential breach of data (some member states have had to close momentarily their application) and what information DG connect received about it (following the request made at the last ehealth network meeting)*

*I'm also interested in the efficiency and the problems of the French app.*

*Yours faithfully,*

*Sophie Petitjean  
Résidence Palace, Rue de la Loi 155, 1040 Bruxelles*

*ps : my request is also addressed to DG santé, should this DG be the one holding those data''.*

## **2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST**

We have identified the following documents as falling within the scope of your request:

- Summary report -19th eHealth Network meeting (Teleconference) 3 June 2021 (**ANNEX I**)
- eHealth Network - COVID 19 - Technical working group on contact tracing apps meeting - 28/4/2021- Minutes of the meeting (**ANNEX II**)

Please note that this reply relates only to documents in possession of DG CONNECT held up to the date of your initial application, i.e. 25 August 2021. Other Directorates-General to which you may have sent similar requests will respond separately.

## **3. ASSESSMENT UNDER REGULATION 1049/2001**

Following an examination of the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that full access can be granted to ANNEX I, whilst partial access is granted to ANNEX II.

### **A. Full disclosure**

ANNEX I is fully disclosed. Please note that this document is publicly available online via the following link:

[https://ec.europa.eu/health/sites/default/files/ehealth/docs/ev\\_20210603\\_sr\\_en.pdf](https://ec.europa.eu/health/sites/default/files/ehealth/docs/ev_20210603_sr_en.pdf)

### **B. Partial disclosure**

Article 4(2) first indent of Regulation 1049/2001 provides that the institutions 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.

This provision must be interpreted in light of Article 339 of the Treaty of the Functioning of the European Union (TFEU), which requires staff members of the EU institutions to refrain from

disclosing information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Parts of ANNEX II are covered by the abovementioned exception as they contain business sensitive information relating to the concerned third party's views, positions and activities. Disclosure of these parts of the document would seriously affect the third party's relations and position in the market and would undermine its commercial interests.

Consequently, the abovementioned parts have been blanked out as their disclosure is prevented by the exception to the right of access laid down in Article 4(2), first indent of Regulation 1049/2001.

Other parts of this document have been redacted as being outside the scope of the request.

#### **4. OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply, unless there is an overriding public interest in the disclosure of documents. Such an interest must, firstly, be a public interest and, secondly, outweigh the harm caused by disclosure. We have examined whether there could be an overriding public interest in the disclosure of the parts of the document which are being withheld but we have not been able to identify such an interest.

#### **5. REUSE OF DOCUMENTS**

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 the Commission documents](#). You may reuse the disclosed documents 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.

#### **6. 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 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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

Electronically signed

Roberto Viola

Enclosures: (2)

