



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate B – Investment, Innovative & Sustainable Transport  
B.4 – Sustainable & Intelligent Transport

MOVE.DDG1.B.4/

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**Subject: Your application for access to documents – EASE 2023/4503**

Dear Ms Bonfour,

We are writing concerning your request for access to Commission documents registered on 28 July 2023 under case number 2023/4503.

In 22 August 2023, we presented you with a proposal for a fair solution pursuant to Article 6(3) of Regulation (EC) No 1049/2001<sup>(1)</sup>, suggesting to narrow down the scope of your application to documents relating to meetings held by Commissioner Adina-Ioana Vălean and the members of her Cabinet with the organisations concerned, for a period between 1 December 2019 and the date of registration of your request, and relating to the topics which you mention in your application (Ares(2023)5720224).

In 24 August 2023, you replied to this proposal for a fair solution (Ares(2023)5779490), accepting the proposal, but “*on the condition that you also include the following documents which are outside of the proposed timeframe but really critical for our query:*

*All briefings, minutes of meetings, and correspondence between formers or the present transport Commissioner, or members of his/her cabinet, or any other representatives of DG Move, on the one side; and representatives of ‘Concawe’ regarding:*

*-the ‘2005 Thematic Strategy on Air Pollution’*

*- ‘Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe’ and its subsequent fitness check undertaken in 2018”.*

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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).

Article 6(3) of Regulation (EC) No 1049/2001 lays down that “*In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution*”. According to the case-law of the Court of Justice, although “*Article 6(3) allows the institution concerned to find a fair solution with the applicant seeking access to documents in its possession, that solution can concern only the content or the number of documents applied for*” <sup>(2)</sup>.

The condition that you propose for accepting our proposal for a fair solution would, in fact, amount to a new request for access to documents, as it includes documents that are not covered by the original application, and which would have to be dealt with under a reduced deadline. It is to be noted that, also according to the above-mentioned case-law, “*reliance on the principle of proportionality cannot allow the time-limits laid down by Regulation No 1049/2001 to be changed without creating a situation of legal uncertainty*” <sup>(3)</sup>. We therefore regret to inform you that we cannot accept the condition you propose to agree on a fair solution.

You may submit a new, separate request for access to documents covering the documents mentioned in your latest communication. **Please note, however, that neither the 2005 Thematic Strategy on Air Pollution nor Directive 2008/50/EC of the European Parliament and of the Council fall within the remit of DG MOVE policy areas**, being therefore unlikely that DG MOVE would hold documents falling within the scope of such application. You may want to consider submitting such request directly to the Directorate-General for Environment (DG ENV), as it is the Directorate-General responsible for developing and carrying out the Commission's policies on improving air quality and reducing air pollution.

As a result, we again kindly ask you to confirm whether you agree to narrow down the scope of your application to that suggested in our proposal for a fair solution. In order to enable us to respect the time-limits of Regulation (EC) No 1049/2001, please reply to this proposal **within two working days at the latest**.

In the absence of a reply within two working days, we will unilaterally restrict the scope of your application to that suggested in that letter.

Thank you in advance for your understanding.

Kind regards,

Kristian HEDBERG  
Head of Unit

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<sup>(2)</sup> Judgment of the Court of 2 October 2014 in Case C-127/13 P – *Commission v Strack*, ECLI:EU:C:2014:2250, paragraph 26.

<sup>(3)</sup> *Idem*, paragraph 28.