



EUROPEAN RESEARCH EXECUTIVE AGENCY (REA)

D1 Planning, Knowledge and Compliance
Head of Unit

Brussels,
REA D1.003

Mr Matteo Ottaviani
Erfprins 18
Oegstgeest
The Netherlands

Sent by registered email to:
[ask+request-16468-
0ee53614@asktheeu.org](mailto:ask+request-16468-0ee53614@asktheeu.org)

Subject: Reply to your request for access to documents – Ref. Ares(2025)9055213

Dear Mr Ottaviani,

We refer to your access to documents request submitted to the European Research Executive Agency (REA) on 17/10/2025 via the website AskTheEU.org and registered after you have provided your postal address, on 23/10/2025 under reference number Ares(2025)9055213.

We informed you¹ that your application will be handled within 15 working days and that the time limit would expire on 13/11/2025. On 11/11/2025, we informed you² that we needed to extend the time limit for responding to your application to allow enough time for the processing of the documents and for consultation with third parties for the documents originating from them.

A. SCOPE OF YOUR REQUEST

In your application, you requested :

*“[...] documents which contain the following information:
Audit report, ex-post control, or recovery reports and letters — produced or held by the
Research Executive Agency concerning institution with number PIC999990849 on the EU
project under the GA number 644373. If full disclosure is not possible, I kindly request a partial
or redacted version or at least confirmation of:*

¹ ARES(2025)9055439

² ARES(2025)9725836

- (a) whether such audits or recovery decisions exist, and
(b) the date and reference numbers of those documents”

This request is handled within the scope of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents³.

B. DISCLOSURE OF THE REQUESTED DOCUMENTS

Having examined the documents requested under the provisions of Regulation 1049/2001, we consider that the two documents that are listed in Annex I attached to this letter relate to your request.

In Annex I we specify the documents that can be partially disclosed according to the exceptions provided in the above-mentioned Regulation. The reasoning and the legal grounds for calling on any of these exceptions are detailed for the relevant documents listed in Annex I to this letter.

With regard to the two documents of Annex I, there are exceptions to the right of access in the Regulation and therefore we can provide you with the restricted access. Those exceptions are laid down in Articles 4(1)(b) and 4(2), first indent of Regulation 1049/2001, i.e. the protection of privacy and the integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data, and the protection of commercial interests of a natural or legal person including intellectual property respectively. For those exceptions, we recall the following:

Protection of privacy and integrity of the individual

Pursuant to Article 4(1)(b) of Regulation 1049/2001, access to a document must be refused if its disclosure would undermine the protection of privacy and integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EU) No 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/EC⁴ (hereinafter “*Regulation 2018/1725*”).

The two identified documents included in Annex I contain information related to identified or identifiable individuals, in particular names, surnames, office number, email addresses, telephone or signature of the Commission’s staff, staff of the External Audit Firm and staff of the auditee. 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

³ Regulation (EC) N° 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 L145, 31.05.2001, page 43, hereinafter “Regulation 1049/2001”.

⁴ Official Journal L 205 of 21.11.2018, p. 39

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 data⁵.

In its judgment in case C-28/08/P (Bavarian Lager)⁶, 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.

Pursuant 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, REA has to examine the further conditions for a lawful processing of personal data only if the first 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 REA must examine whether there is a reason to assume that the data subject's legitimate interest might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose.

We consider that, in your request, you do not put forward any arguments to establish the necessity to have the data transmitted. Therefore, REA does not have to examine whether there is a reason to assume that the data subjects' legitimate interest might be prejudiced. Nevertheless, please note that there are no reasons to assume that the legitimate interest of concerned individuals would not be prejudiced by disclosing their personal data. In the present case, disclosure of the personal data of persons involved in the project in question would harm their privacy.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation No 1049/2001, access cannot be granted to the personal data contained in the documents requested. Therefore, the personal data have been redacted in those documents.

The exception laid down in Article 4(1)(b) of Regulation No 1049/2001, the protection of privacy and the integrity of the individual, is an absolute exception that does not have to be balanced against the public interest in disclosure.

⁵ Judgment of the Court of Justice of the European Union of 20 December 2017 in case C-434/16.

⁶ Judgment of 29 June 2010 in case C-28/08/P, European Commission v The Bavarian Lager Co. Ltd, EU:C:2010:378, paragraph 63.

Protection of commercial interests of natural and legal persons

In accordance with Article 4(2), first indent of Regulation 1049/2001, an institution 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.

First of all, please note that the identified documents included in Annex I refer to the auditee and not necessarily only to the specific grant agreement number 644373 that you requested access to. The public disclosure of the name of the auditee or elements identifying the auditee would have adverse effect on the auditee's commercial interests, in particular to its reputation, as it would expose the auditee to unjustified outside criticism and unsolicited contacts. Moreover, such disclosure would undermine the relationship of the auditee with its stakeholders and partners. For this purpose, the auditee's name and elements permitting its identification are redacted in all documents.

Secondly, the two identified documents of Annex I mainly refer to different projects that are neither within the scope of your request (Grant Agreement number 644373) nor within the remit of REA. In particular the majority of the documents refer to the auditee's financial management of some projects, the precise manner in which it participated in the audit, the evidence the auditee presented, and the main issues identified in the respective audit process as regards the auditee. The public disclosure of the above information about its project management, its participation in the audit, its evidence or main issues identified might undermine the auditee's reputation, as it might expose it to outside criticism. Consequently, such disclosure might undermine the existing and future commercial relations of the auditee.

In addition, document numbered 2 refers to the External Audit Firm, in particular to its name and manner in which it has carried out the audit. The public disclosure of the name of the External Audit Firm in relation to audit BAEA354001 might undermine the External Audit Firm reputation. The same document number 2 includes the know-how of the External Audit Firm, its methodology and structure it applied when carrying out the audit. This information has commercial value for the External Audit Firm and its public disclosure might undermine the External Audit firm's commercial interests, in particular as regards its intellectual property.

Last but not least, the documents contain information related to the internal business of the auditee, appreciations of auditors and the auditee on the audit's findings and the procedure, and detailed information on costs declared by the auditee for the implementation of the projects. Public disclosure of this information could undermine the commercial interests of the auditee, including its commercial reputation.

Accordingly, the exception in Article 4(2), first indent of Regulation 1049/2001 must be invoked and access to part of the documents has to be refused.

Such exception applies, unless there is an overriding public interest in disclosure of the requested document. Such an interest must, first, be a public interest and secondly, outweigh the harm caused by disclosure. In your application, you did not bring forward any argument to justify the existence of an overriding public interest in releasing the requested document(s). In this instance, we have found no elements that could indicate the existence of such an overriding public interest in the sense of Regulation 1049/2001 that would outweigh the need to protect the commercial interests identified in this reply.

Therefore, the exception laid down in Article 4(2) first indent of Regulation 1049/2001 applies to the above-mentioned document.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Director of the REA to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to Mr Marc TACHELET, Director of the REA, at the following address:

European Research Executive Agency (REA)
SB34, floor 8
1049 Brussels

Or by e-mail to: marc.tachelet@ec.europa.eu

Yours sincerely,

Barbara KAMPIS
Head of Unit

Enclosures:

Annex I - List of documents related to the request and legal grounds regarding disclosure

Documents:

- Final_Audit_Report_BAEA354001_Redacted
- Letter_BAEA354001_Redacted