



EUROPEAN RESEARCH EXECUTIVE AGENCY (REA)

The Director

Brussels,
REA.D.1.003

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: Your confirmatory application for access to documents request related to the project No 644373 - Ares(2025) 11247536.

Dear Mr Ottaviani,

We refer to your confirmatory application registered by the European Research Executive Agency (REA) on 16 December 2025 under reference number Ares(2025)11247536.

You request, pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents ('Regulation 1049/2001'), a review of the position taken by REA with regard to your initial request for access to documents.

I. SCOPE OF YOUR REQUEST

You submitted to REA a request for access to documents registered on 23 October 2025 under reference number Ares(2025)9055213, after you have provided your postal address.

In your initial application you requested access to:

"[...] 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:

(a) whether such audits or recovery decisions exist, and

(b) the date and reference numbers of those documents ””

On 11 December 2025, REA replied to your initial request¹.

In Annex 1 of its letter, REA identified the following two documents as falling within the scope of your request:

- Document No 1: PRISAR project-Final Audit Report BAE354001;
- Documents No 2: PRISAR project-Letter_BAEA354001

In particular, REA has made a partial disclosure of both documents based on the exceptions relating to the protection of the commercial interests of a natural or legal person, laid down in Article 4(2), first indent, of Regulation 1049/2001, and to the protection of the privacy and integrity of the individual laid down in Article 4.1(b) of Regulation 1049/2001.

On 16 December 2025, REA registered your confirmatory application pursuant to Article 7(2) of Regulation 1049/2001.

In your confirmatory application you requested REA to reconsider its decision of 11 December 2025 refusing full access to the requested documents and asked for further access to the documents.

Through your confirmatory application, you challenge the application of the exception of commercial interests of a natural or legal person and claim that the refusal of access is not justified.

II. ASSESSMENT OF YOUR CONFIRMATORY APPLICATION

Pursuant to Article 7(2) of Regulation 1049/2001, the aim of a confirmatory application is to request an Institution or an Agency to reconsider the position taken at the stage of the initial application. Therefore, when assessing a confirmatory application for access to documents, REA conducts a fresh review of the reply given at the initial stage in the light of the provisions of Regulation 1049/2001.

As a preliminary point, I would like to clarify that both documents falling within the scope of your request, in addition to information related to the grant agreement No. 644373 for project PRISAR, also contain information related to three other projects that were subject to the same audit but are not in the remit of REA. Therefore, we have expunged the information related to those three projects that are out of scope of your request.

Following the review of your application, I am pleased to inform you that wider partial access can be granted to both documents:

- Document No 1: PRISAR project-Final Audit Report BAE354001;
- Documents No 2: PRISAR project-Letter_BAEA354001

¹ Ares(2025)10995783

However, regarding the remaining expunged parts of documents No 1 and 2, I consider these to be covered by the exceptions provided in Articles 4(1)(b) and 4(2), first indent, respectively relating to the protection of the privacy and integrity of the individual and the protection of commercial interests of a natural or legal person.

II.1 Protection of privacy and integrity of the individual under Article 4(1)(b)

Article 4(1)(b) of Regulation 1049/2001 provides that *‘[t]he institutions 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’*.

The applicable legislation in this field is 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, repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (*‘Regulation 2018/1725’* or *‘Data Protection Regulation’*). In its judgment in Case C-28/08 P (Bavarian Lager)², 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.

Documents No 1 and 2 to which you requested access, contain personal data of individuals, such as first names, surnames and functions, office number, telephone numbers or handwritten signatures of the Commission’s staff (not senior management staff), staff of the External Audit Firm and or staff of the auditee. Indeed, this information clearly constitutes personal data in the meaning of Article 3(1) of Regulation 2018/1725. The Court of 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 data³.

The notion of ‘personal data’ which is protected under the exception under Article 4(1)(b) of Regulation 1049/2001 is not to be confused with the concept of ‘private life’ of individuals. According to the Court of Justice, *‘there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of “private life”’*⁴. The names, surnames, of the persons concerned as well as other data from which their identity can be deduced, undoubtedly constitute personal data in the meaning of Article 3(1) of Regulation 2018/1725. It follows that public disclosure of the above-mentioned information would constitute processing (transfer) of personal data within the meaning of Article 9 of Regulation 2018/1725.

Pursuant to Article 9(1) of Regulation 2018/1725, *“(...) personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if: (a) the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the recipient; or (b) the 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*

² Judgment of 29 June 2010 in case C-28/08/P, European Commission v The Bavarian Lager Co. Ltd, EU:C2010:378, paragraph 63.

³ Judgment of 20 December 2017 in case C-434/16, Peter Novak v Data Protection Commissioner, paragraph 35.

⁴ Judgment of 20 May 2003, Rechnungshof v Österreichischer Rundfunk and Others, C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

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 one of the conditions under (a) or (b) of Article 9(1) is fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, the transmission of personal data can occur.

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, personal data have been withheld from these documents.

I therefore 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 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.

II.2 Protection of commercial interests under Article 4(2), first indent

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.

Documents No 1 and No 2 contains sensitive financial information.

More precisely:

- Document No 1 contains information about audit findings on the auditee, appreciation of auditors and the auditee on the audit and recommendations, summary financial figures, information on the time recording system of the audited entity, detailed information on costs declared by the auditee related to the project PRISAR.
- Documents No 2 contains appreciations of auditors and the auditee on the audit findings, observations and recommendations.

Public disclosure of this information could undermine the commercial interests of the auditee, including its reputation, as it would expose the auditee to unjustified outside criticism. For this purpose, the auditee's name and elements permitting its identification are redacted in the documents.

Furthermore, documents No 1 and No 2 refer to the name and appreciations of the External Audit Firm that has carried out the audit, including the know-how of the External Audit Firm and the procedure 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.

In consequence, there is a real and non-hypothetical risk that public access to the expunged parts of documents No 1 and 2 would undermine the commercial interests, of the auditee or of the External Audit Firm.

III. OVERRIDING PUBLIC INTEREST

The exception laid down in Article 4(2), first indent, second subparagraph, of Regulation 1049/2001 must be waived if there is an overriding public interest in disclosure. Such an interest must, first, be public, and second, has to outweigh the damage caused by the release, i.e. it must outweigh the interests protected by virtue of Article 4(2), first indent of Regulation 1049/2001.

In this instance, I consider that you have not presented elements demonstrating the existence of an overriding public interest in the disclosure of the full version of the documents that would outweigh the public interest in the protection of the commercial interests.

Therefore, the exceptions laid down in Article 4(2), first indent, of Regulation 1049/2001 should apply to the redacted parts of the documents.

IV. CONCLUSION

Having re-examined your request, I have concluded that wider partial access can be granted to: Document No 1: PRISAR project- Final Audit Report BAE354001 and Document No 2: PRISAR project- Letter_BAEA35400.

As regards the remaining expunged parts of both documents no further access is possible without undermining the protection of privacy and integrity of the individual and/or the protection of commercial interests of a natural or legal person according to the exceptions laid down respectively in Articles 4(1)(b) and 4(2), first of Regulation 1049/2001.

V. MEANS OF REDRESS

I draw your attention to the means of redress available against this decision of the Agency. You may, under the conditions of Article 263 TFEU, bring proceedings before the General Court of the European Union or, under the conditions of Article 228 TFEU, file a complaint with the European Ombudsman.

Yours sincerely,

Marc TACHELET

Enclosures:

- Document No 1: Final Audit Report BAE354001- Redacted
- Documents No 2: Letter_BAEA354001- Redacted