



EUROPEAN COMMISSION
NEIGHBOURHOOD AND ENLARGEMENT NEGOTIATIONS

The Director-General

Brussels

Pascoe SABIDO
Belgium

By email only to:
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Subject: Your application for access to documents

Ref.: EASE 2024/3205 – Ares(2024)4329422

Dear Mr Sabido,

Your above-mentioned application read:

“I am requesting documents which contain the following documents relating to the visit of Director-General Koopman to Azerbaijan on 3 and 4 May 2024:

- *any briefings prepared in advance;*
- *a schedule of his visits;*
- *attendance lists of all meetings;*
- *agendas of meetings;*
- *minutes and/or summaries of all meetings;*
- *presentations from the meetings;*
- *any other documents shared in advance, during or after the meeting;*
- *correspondence (such as emails, letters, whatsapps) with Azeri government officials and stakeholders about the visit and what was discussed during it, both before and after”.*

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

Doc.1.	Note verbale, Ref. Ares(2024)2289678
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Doc.2.	Briefing, Ref. BASIS NEAR/3147
Doc.3.	Agenda and list of participants, Ref. Ares(2024)5064767
Doc.4.	Mission report, Ref. Ares(2024)5034665
Doc.5.	Factsheet distributed at the launch of the Team Europe Initiative. Ref. Ares(2024)4932155
Doc.6.	Powerpoint presented at the launch of the Team Europe Initiative, Ref. Ares(2024)4932155

Having examined these 6 documents under the provision of Regulation (EC) No 1049/2001 ⁽¹⁾, I have come to the following conclusions:

- Partial access can be granted to documents 1 and 3-6. Some parts of the documents have been blacked out as their disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(a), third indent (protection of the public interest as regards international relations), and Article 4(1)(b) (protection of the privacy and the integrity of the individual) of Regulation (EC) No 1049/2001. Please note that parts of document 3 contain phrases which are out of the scope of the request; these parts have been redacted.
- Access must be refused to document 2. Disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(a), third indent (protection of the public interest as regards international relations) and Article 4(1)(b) (protection of the privacy and the integrity of the individual) of Regulation (EC) No 1049/2001. Please note that parts of document 2 contain phrases which are out of the scope of the request; these parts have been redacted.

Hereunder are the justifications for the redactions to documents 1 and 3-6 and for the denial of access to document 2.

1. Protection of the public interest as regards international relations

Disclosure of document 2 and full disclosure of document 4 is prevented by the exception concerning the protection of international relations outlined in Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

The Court of Justice ruled that the institutions ‘*must be recognised as enjoying a wide discretion for the purpose of determining whether the disclosure of documents relating to the fields covered by [the exceptions provided for in this Article 4(1)(a) of Regulation (EC) No 1049/2001] could undermine the public interest*’ ⁽²⁾.

Moreover, the General Court ruled that, as regards the interests protected by the above-mentioned article, ‘*it must be accepted that the particularly sensitive and fundamental nature of those interests, combined with the fact that access must, under that provision, be*

⁽¹⁾ 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, Official Journal L 145 of 31 May 2001, p. 43.

⁽²⁾ Judgment in case C-350/12 *Council v In ‘t Veld*, paragraph 63.

refused by the institution if disclosure of a document to the public would undermine those interests, confers on the decision which must thus be adopted by the institution a complexity and delicacy that call for the exercise of particular care. Such a decision requires, therefore, a margin of appreciation' (3).

In this context, it is important to mention that when (partial) access is given to documents as a result of an application submitted under Regulation (EC) No 1049/2001, this access is automatically granted to the public at large, and not only to the applicant concerned. In other words, disclosure of documents under Regulation (EC) No 1049/2001 has an *erga omnes* effect preventing the institution from opposing communication of the disclosed documents to other applicants (4).

Document 2 is a briefing that was drawn up by DG NEAR for its internal use in view of the meetings held during this visit (see document 3: Agenda and list of participants). The briefing contains internal considerations, reflections, positions and views of the Commission services on issues related to sensitive aspects of the international relations between the European Union and Azerbaijan, the publication of which would be detrimental to the public interest as regards the EU's international relations. Briefings are usually drawn up by the Commission services and made available to a person representing the Commission to inform him or her of the issues and the objectives at political level so that he or she can prepare for and conduct a political discussion.

Additionally, in light of the challenging operating environment for civil society in Azerbaijan, and in the interest of the safety of the civil society organisations concerned, the names of these organisations have been redacted in Document 3.

Document 4 is a mission report and contains non-public EU positions on a range of sensitive issues, the publication of which would be detrimental to the public interest as regards international relations. It also includes non-public positions of Azerbaijan, the publication of which would damage relations between the EU and Azerbaijan.

Having regard to the above, I conclude that there is a reasonably foreseeable and non-hypothetical risk that disclosure of the said documents would undermine the protection of the public interest as regards international relations between the EU and Azerbaijan. Therefore, I consider that the use of the exception under Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001 is justified, and that access to the documents in question must be refused on that basis.

2. Protection of the privacy and the integrity of the individual

Disclosure of document 2 and full disclosure of documents 1 and 3-6 is prevented by the exception concerning the protection of the privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001.

In particular, these documents contain the following personal data:

- the names of Commission staff members not pertaining to the senior management;

(3) Judgment of 11 July 2018 in case T-644/16 *Client Earth v European Commission*, paragraph 23.

(4) Judgment of 21 October 2010 in case T-439/08 *Agapiou Joséphidès v Commission and EACEA*, paragraph 116.

- other information relating to an identified or identifiable natural person (functions);
- pictures of identifiable persons.

Article 9(1)(b) of the Data Protection Regulation ⁽⁵⁾ does not allow the transmission of these personal data, except if you prove that it is necessary to have them 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 application, you do not express any particular interest to have access to these personal data, nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested document, 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.

Partial access

We have considered whether partial access could be granted to document 2 but this was deemed impossible, as the sensitive elements are integral to it. Please note that we cannot provide you with more detailed information on document 2 without disclosing its substance, which is protected by the quoted exceptions laid down in Article 4 of Regulation (EC) No 1049/2001.

Means of redress

For the sake of good order, I further refer to Article 7(2) of Regulation (EC) No 1049/2001. In accordance with this Article, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed to the Secretary-General of the Commission within 15 working days upon receipt of this letter and can be submitted in one of the following ways:

by asking for a review via your ‘EASE’ portal ⁽⁶⁾ account (available only for initial requests submitted via the portal account)

or by mail:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles/Brussel

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

⁽⁵⁾ 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 of 21 November 2018, p. 39.

⁽⁶⁾ <https://www.ec.europa.eu/transparency/documents-request>

Yours sincerely,

Electronically signed

Gert Jan KOOPMAN

Enclosures: Documents 1, 3-6.