



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR TRADE

The Director-General

Brussels  
TRADE/SW/R.3(2024)6376220

Ms Margarida Da Silva  
KNSM-laan 17  
1019 LA Amsterdam  
THE NETHERLANDS

**By email only – with request for  
explicit acknowledgment of receipt  
by email reply:**  
[ask+request-14740-e6f7f667@asktheeu.org](mailto:ask+request-14740-e6f7f667@asktheeu.org)

**Subject: Your application for public access to documents – EASE 2024/3668**

Dear Ms Da Silva,

I refer to your email application dated 8 July 2024, registered on 9 July 2024 under the above-mentioned EASE reference number, in which you make a request for public access to documents under Regulation (EC) No 1049/2001<sup>1</sup> ('Regulation 1049/2001').

## 1. SCOPE OF YOUR REQUEST

You have requested public access to the following documents:

*'All documents, including but not limited to attendance lists, agendas, background papers, minutes/notes and email correspondence about or summarising, the following meetings:*

- 16/10/2023 – Valdis Dombrovskis (Executive Vice-President) – Keidanren (Japan Business Federation)*
- 06/06/2023 – Elina Melngailė (Cabinet member), Kevin Keary (Cabinet member) – Daiichi Sankyo Europe GmbH*
- 01/03/2023 – Kevin Keary, Cristina Rueda Catry – European Services Forum*
- 22/03/2024 – Michael Hager – Intel Corporation.'*

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents (Official Journal OJ L 145, 31.5.2001, p. 43).

We have identified **11 documents** falling within the scope of your request:

- 01 – Ares(2023)4050951 – Meeting request – Keidanren – 16.10.23;
- 02 – Ares(2023)4050951 – Meeting request – Keidanren – Attachment 1 – CV;
- 03 – Ares(2023)4050951 – Meeting request – Keidanren-Attachment 2 – Member list;
- 04 – Ares(2023)7727225 – Meeting minutes – Keidanren – 16.10.23;
- 05 – Ares(2023)4334503 – Meeting request – Daiichi – 06.06.23;
- 06 – Ares(2023)4334503 – Meeting request – Daiichi – Attachment – Company introduction;
- 07 – Ares(2023)4334325 – Meeting minutes – Daiichi – 06.06.23;
- 08 – Ares(2023)385463 – Meeting request – ESF – 01.03.23;
- 09 – Ares(2023)1733079 – Meeting minutes – ESF – 01.03.23;
- 10 – Ares(2024)1388126 – Meeting request- Intel Corporation – 22.03.24;
- 11 – Ares(2024)5443732 – Meeting minutes – Intel Corporation – 22.03.24.

For details and numbering kindly refer to the enclosed Annex ‘List of identified documents and type of disclosure’.

## **2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001**

Having examined the requested documents under the applicable legal framework, **partial access is granted to documents 01, 03-04 and 07-10**, with only personal data redacted in application of Article 4(1)(b) of Regulation 1049/2001, and **partial access to document 06** with some parts redacted under Article 4(2)(a) of Regulation 1049/2001 (protection of commercial interests of a natural or legal person, including intellectual property). In addition to personal data, **document 05** has been also redacted under Article 4(2)(a) of Regulation 1049/2001 and **document 11** under Article 4(1)(a), third indent (protection of international relations).

**Document 02** is entirely withheld, as there would be no meaningful content remaining after the redaction of the sensitive personal data Article 4(1)(b) of Regulation 1049/2001.

For further details please see below under points 2.1 to 2.4.

Copies of the accessible documents in their redacted version are enclosed to the present reply letter.

### **2.1. PROTECTION OF THE PRIVACY AND INTEGRITY OF THE INDIVIDUAL – ARTICLE 4(1)(B) OF REGULATION 1049/2001**

#### **2.1.1. ‘Personal data’**

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) No 2018/1725<sup>2</sup> (hereafter ‘Regulation 2018/1725’ or ‘Data Protection Regulation’).

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 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 data.<sup>3</sup> Please note in this respect that the names, signatures, functions, email addresses, telephone numbers etc., and/or initials pertaining to staff members of an institution are to be considered personal data<sup>4</sup>, as well as those of individuals belonging to third parties.

We disclose **documents 01, 03-05 and 07-11** only partially, as they contain certain personal data, which must be redacted in accordance with Article 4(1)(b) of Regulation 1049/2001, namely:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and/or contact details of other natural persons – other than Commission staff members;
- other information relating to an identified or identifiable natural person.

### ***2.1.2. Question of ‘transfer’ of personal data and conclusion***

Article 9(1)(b) of Regulation 2018/1725 does not allow the transmission of these personal data, except if you prove that it is necessary to have the data 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 request, 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.

Consequently, I 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 as 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.

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<sup>2</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents (Official Journal OJ L 145, 31.5.2001, p. 43).

<sup>3</sup> 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, 21.11.2018, p. 39.

<sup>4</sup> Judgment in *Peter Novak v Data Protection Commissioner*, case C-434/16, ECLI:EU:T:2018:560, points 33-35.

## 2.2. PROTECTION OF COMMERCIAL INTERESTS (DOCUMENTS 5 AND 6) – ARTICLE 4(2), FIRST INDENT OF REGULATION 1049/2001

### 2.2.1. *Relevance of Article 4(2), first indent of Regulation 1049/2001 in relation to document 1*

Article 4(2), first indent of Regulation 1049/2001 provides that *'[t]he 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'*.

While not all information concerning a company and its business relations can be regarded as falling under the exception of Article 4(2), first indent<sup>5</sup>, it appears that the type of information covered by the notion of commercial interests would generally be of the kind protected under the obligation of professional secrecy<sup>6</sup>. Accordingly, it must be information that is *'known only to a limited number of persons'*, *'whose disclosure is liable to cause serious harm to the person who has provided it or to third parties'* and for which *'the interests liable to be harmed by disclosure must, objectively, be worthy of protection'*<sup>7</sup>.

**Documents 05 and 06** refer to publicly undisclosed sensitive information about the business strategy and economic figures of a third party, i.e. the document originator. The release of such information would undermine the protection of the commercial interests of this third party.

Therefore, the respective parts of **documents 05 and 06** need to be protected, and accordingly be redacted under the first indent of Article 4(2) of Regulation 1049/2001.

### 2.2.2. *Question of overriding public interest*

The exception of Article 4(2), first indent (protection of commercial interests of a natural or legal person, including intellectual property) of Regulation 1049/2001 applies, unless there is an overriding public interest in disclosure of the document. Such an interest must, first, be public and, secondly, outweigh the harm caused by a disclosure.

Accordingly, we have considered whether the risks attached to the release of the withheld part of **documents 05 and 06** are outweighed by the public interest in accessing the requested document. We have not been able to identify any such public interest capable of overriding the commercial interests of the companies concerned. In the present case, there is no such evidence.

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<sup>5</sup> Judgment in *Terezakis v Commission*, T-380/04, EU:T:2008:19, point 93.

<sup>6</sup> See Article 339 of the Treaty on the Functioning of the European Union.

<sup>7</sup> Judgment in *Bank Austria v Commission*, T-198/03, EU:T:2006:136, point 29.

### 2.3. PROTECTION OF THE PUBLIC INTEREST AS REGARDS INTERNATIONAL RELATIONS (DOCUMENT 11) – ARTICLE 4(1)(A), THIRD INDENT OF REGULATION 1049/2001

Article 4(1)(a), third indent of Regulation 1049/2001 provides that *'[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: the public interest as regards: [...] international relations'*.

Disclosing parts of **document 11** would undermine the protection of the public interest as regards international relations, because this information – if disclosed – would put in the public domain the EU's and its Member States' strategic and policy positions and related internal policy considerations related to semiconductors.

We therefore consider that the confidentiality of parts of **document 11** is fully protected by a coherent application of Article 4(1)(a), third indent of Regulation 1049/2001. Therefore, public access to these parts of **document 11** has also to be refused.

### 2.4. QUESTION OF PARTIAL ACCESS (DOCUMENT 02)

We have considered whether partial access could be granted to **document 02**. However, partial access is not possible in the present case, as there would be no meaningful content remaining after the redaction of the sensitive personal data. Therefore, this document is entirely withheld.

## 3. DISCLAIMER(S)

Please kindly pay attention to the following: you may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf, based on [Commission Decision 2011/833/EU of 12 December 2011 on the re-use of Commission documents](#)<sup>8</sup>. You may reuse the documents disclosed free of charge 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 any liability stemming from the reuse.

Furthermore, please note that documents containing content of third-party origin, i.e. either documents originating from third parties or documents containing parts of third-party origin (in the present case: **documents 01, 03, 05, 06, 08 and 10**) are disclosed to you based on Regulation 1049/2001. However, disclosure of such third-party content is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from the reuse of those documents or parts of documents.

Finally, **documents 04, 07, 09 and 11** were drawn up under the responsibility of the relevant Commission official. They solely reflect the author's interpretation of the interventions made and do not set out any official position of any third party to which the documents may refer, which was/were not necessarily consulted on their content. They

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<sup>8</sup> OJ L 330, 14.12.2011, p. 39.

do not necessarily reflect the position of the Commission and, therefore, cannot be quoted as such.

#### 4. POSSIBILITY OF A 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, either by

- **asking for a review via your portal<sup>9</sup> account** (available only for initial requests submitted via the portal account), *or*
- **email** to [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu), *or*
- **letter post** to the following address:

European Commission  
Secretariat-General  
'Transparency, Document Management & Access to Documents' (unit SG C.1)  
BERL 7/76  
Rue de la Loi 200/Wetstraat 200  
1049 Brussels  
BELGIUM.

Yours sincerely,



Sabine WEYAND

Enclosures: (11)     Annex 'List of identified documents and type of disclosure',  
10 documents (*partially redacted*).

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<sup>9</sup> <https://www.ec.europa.eu/transparency/documents-request>