



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

The Director-General

Brussels
GROW.G.2/(2022)1932708



By email: [REDACTED]



Subject: Your request for access to documents - GestDem 2022/1163

Dear Ms van Rinsum,

We refer to your e-mail of 23 February 2022, registered on 24 February 2022, in which you make a request for access to documents under the above-mentioned reference number, following the documentation first provided by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) under GESTDEM 2021/8086.

1. SCOPE OF YOUR APPLICATION

By your application, you request access to the following correspondence from the list we provided under GESTDEM 2021/8086:

1. Ares(2021)7869346 20-12-21 European Tech Industry employers
6. Ares(2021)7516622 06-12-21 Commerzbank
7. Ares(2021)7474846 03-12-21 Commerzbank
8. Ares(2021)7435812 02-12-21 French banking federation
9. Ares(2021)7364420 30-11-21 French banking federation
10. Ares(2021)7030133 16-11-21 Commerzbank
11. Ares(2021)4446437 08-07-21 Bavarian Chamber of Commerce
14. Ares(2021)7003752 15-11-21 FAIR TRADE ADVOCACY OFFICE
16. Ares(2021)3800579 10-06-21 Board Leadership Society Denmark
17. Ares(2021)3800147 10-06-21 Arbeitgeber.de
22. Ares(2021)3175599 12-05-21 BDA - German Employers
26. Ares(2021)5146720 17-08-21 BusinessEurope – Business Europe
27. Ares(2021)4163272 25-06-21 VDMA - EUROPEAN OFFICE
35. Ares(2021)5771778 21-09-21 FTI CONSULTING
36. Ares(2021)7029415 16-11-21 FTI CONSULTING

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

We have identified the enclosed documents falling in the scope of your request:

- The document compiling 15 pieces of correspondence and related position papers with business stakeholders (Document 1).
- The document compiling 4 minutes falling under the scope of your initial request which could not be granted access previously under GESTDEM 2021/8086 as we had to receive the agreement on disclosure of the consulted stakeholders (Document 2).

3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001 we have arrived at the conclusion that access can be partially given to Document 1 and Document 2.

In particular, partial disclosure of Document 1 and Document 2 is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

Parts of the identified document are covered by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since they contain the following personal data:

- the names/initials, functions and contact information of Commission staff members not pertaining to the senior management;
- Names, functions and contact information of other natural persons.

Article 9(1)(b) of the Data Protection Regulation¹ 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.

Therefore, I conclude that, pursuant to Article 4(1)(b) Regulation 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.

Consequently, personal data is redacted in Document 1 and Document 2.

In addition, the position papers corresponding to n. 22, 26 and 27 are publicly available. For ease of reference, they are also included in Document 1.

¹ 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.

Furthermore, following our reply of 23 February 2022 to your request under GESTDEM 2021/8086, please note that 4 additional minutes falling under the scope of your request can be granted access, in accordance with our examination under Regulation 1049/2001 and taking into account the positions of the consulted stakeholders.

They concern:

- 1) Minutes 23/06/2021 - H&M
- 2) Minutes 25/06/2021 - Adidas
- 3) Minutes 08/09/2021 - Zalando
- 4) Minutes 09/09/2021 – Rehau

These 4 additional minutes are compiled in the attached Document 2.

Please also note that the final decision from a third-party under GETDEM 2021/8086 is still pending for the following minutes: Minutes 01/07/2021 – unilever. We apologize for this additional delay and will send you the final response as soon as the third-party has come back.

4. DISCLAIMERS

Please note the minutes were drawn up for internal use under the responsibility of the relevant service of DG GROW. They solely reflect the service's interpretation of the interventions made and do not set out any official position of the third parties to which the minutes refers. They do not reflect the position of the Commission and cannot be quoted as such.

Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure 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 originators, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

5. MEANS OF REDRESS

In accordance with Article 7(2) of Regulation (EC) No 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 at the following address:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,


e-signed

Enclosure: Document 1, Document 2