

Reply by the European Commission to the suggestion for improvement from the European Ombudsman regarding the Commission's refusal to disclose personal data of interest representatives that participated in a high-level meeting (EASE 2024/4995), complaint with reference 2186/2024/KR

I. BACKGROUND/SUMMARY OF THE FACTS/HISTORY

On 25 September 2024, the complainant submitted a request¹ for public access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (hereafter 'Regulation (EC) No 1049/2001')².

In his application, handled by the Directorate-General for Neighbourhood and Enlargement Negotiations (hereafter 'DG NEAR'), the complainant requested access to:

‘(...) All documents related to a meeting between Commissioner Varhelyi's cabinet and the Tony Blair Institute on 19 June 2024. This is meant to include meeting minutes, e-Mails, briefing notes, etc’.

In its initial reply of 11 October 2024, DG NEAR identified two documents falling under the scope of the complainant's request. It granted wide partial access to both documents, subject only to the redaction of personal data based on the exception laid down in Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

On 13 October 2024, the complainant submitted a confirmatory application requesting a review of this position and questioning the redaction of the names of members of the Cabinet of Commissioner Várhelyi and Tony Blair Institute (hereafter 'TBI') staff from the documents disclosed.

In addition, the complainant noted that one of the two documents identified at the initial stage mentions an invitation to a panel discussion on the accession of Ukraine to the European Union and requested access to the invitation in question, which in his view was clearly connected to the meeting between Commissioner's Várhelyi's Cabinet and fell therefore within the scope of the initial request.

In its confirmatory decision of 24 November 2024, the Commission replied that:

- as regards the invitation to the panel on Ukraine's accession to the EU mentioned in document 1, the Commission considers that this document falls outside the scope of the request as the invitation is not related to the scope of the request for 'documents related to a meeting between Commissioner Várhelyi's cabinet and the Tony Blair Institute on 19 June 2024' as the invitation is linked to a different event on a different date. Consequently, a new request for access to this document shall be submitted pursuant to Regulation (EC) No 1049/2001;
- as regard access to the names of Cabinet members and TBI staff from the documents disclosed, the Commission granted further access to the name of a Cabinet member,

¹ Registered with reference GESTDEM 2022/1833.

² OJ L 145,31.5.2001, p. 43.

while confirming the need to protect from public disclosure of the names of the representatives of a third party based on the exception of Article 4(1)(b) (protection of privacy and integrity of the individual) of Regulation (EC) No 1049/2001.

II. THE COMPLAINT TO THE EUROPEAN OMBUDSMAN

The complainant submitted a complaint to the European Ombudsman to challenge the way the Commission handled his request for public access to the names of the TBI staff.

III. THE EUROPEAN OMBUDSMAN'S INQUIRY AND ASSESSMENT

The Ombudsman opened an inquiry into the Commission's refusal to grant public access to the names of the TBI staff from the documents requested.

Based on the inspection of the documents and the additional views on the complaint submitted by the Commission, the Ombudsman considered that the Commission's conclusion that the complainant had not put forward sufficient arguments to establish the necessity to have the personal data transferred to him for a specific purpose in the public interest was reasonable.

However, the Ombudsman considered that the Commission 'could have consulted with TBI on the question of disclosing the names of their representatives at the meeting [in accordance with Article 4(4) of Regulation (EC) No 1049/2001]'. In the Ombudsman's view, 'this could have been an efficient way of addressing the complainant's request, and could have removed any basis for public speculation'.

THE OMBUDSMAN'S SUGGESTION FOR IMPROVEMENT

The Ombudsman made the following suggestion for improvement:

'In order to deal in a citizen-friendly manner with public access requests and increase lobbying transparency, the Commission should ask interest representatives who meet with it if they consent to disclosing their personal data when this is specifically requested'.

In addition, while noting and welcoming, as an important improvement to increase lobbying transparency, the Commission's adoption of new transparency rules concerning meetings held between Members of the Commission (and their Members of Cabinet) or Commission staff holding management functions with interest representatives³, the Ombudsman noted that the Commission should reinstate the option 'to ask interests representatives to disclose their names, for example in case the personal data of interest representatives is concerned in requests for public access to documents'.

³ Commission Decision (EU) 2024/3081 of 4 December 2024 on transparency measures concerning meetings held between Members of the Commission and interest representatives, and repealing Decision 2014/839/EU, Euratom ([OJ L, 2024/3081, 5.12.2024](#)); Commission Decision (EU) 2024/3082 of 4 December 2024 on transparency measures concerning meetings held between Commission staff holding management functions and interest representatives, and repealing Decision 2014/838/EU, Euratom ([OJ L, 2024/3082, 5.12.2024](#)).

IV. THE EUROPEAN COMMISSION'S REPLY TO THE SUGGESTION FOR IMPROVEMENT OF THE EUROPEAN OMBUDSMAN

Since 2014, the Commission publishes information on meetings held between Members of the Commission, members of their Cabinets and/or Directors-General with interest representatives⁴. The information made public consists of, *inter alia*, the name(s) of the interest representative(s), namely the organisation or self-employed individual concerned, but not of the personal data (names and/or functions) of individuals acting on behalf of interest representatives and attending meetings.

In parallel, the Commission representatives referred to above are required to meet only those interest representatives which are registered in the Transparency Register inasmuch as they fall under the scope of the Interinstitutional Agreement ('conditionality' of meetings).

In view of the decision of the President highlighted in all Mission letters to extend the requirement of the Transparency Register to all managers and in view of the positive experience with the publication of information on meetings held by the Members of the Commission or by members of their Cabinet and/or Directors-General with interest representatives on issues relating to decision-making and policy implementation in the Union, the Commission adopted on 4 December 2024 the Commission Decisions (EU) 2024/3081 and 2024/3082 maintaining the existing practice of making public information on meetings with interest representatives and extending that practice as well as the conditionality of meetings to all Commission staff holding management functions.

In order to further enhance transparency concerning interest representation and allow citizens to be aware of the content of the exchanges held between the Commission and interest representatives, Commission Decisions (EU) 2024/3081 and 2024/3082 establish that minutes shall be taken of all meetings that Members of the Commission and/or members of their Cabinet and/or Commission staff holding management functions hold with interest representatives. Due to the conditionality of meetings, this refers exclusively to interest representatives that are registered in the Transparency Register. According to the applicable provisions (Articles 4 and 5 of Commission Decision (EU) 2024/3081 and Articles 5 and 6 of Commission Decision (EU) 2024/3082) both the information to be made public and the minutes of the meeting shall include the name(s) of the interest representative(s). This refers to the organisations or self-employed individuals as registered in the Transparency Register.

The Commission takes note of the Ombudsman's welcoming of the new transparency decisions 'as an important improvement to increase lobbying transparency'.

The Commission notes further that Commission Decisions (EU) 2024/3081 and 2024/3082 set out specific provisions concerning the processing of personal data for the purpose of the publication of information on, and minutes of, meetings held with interest representatives. Article 7 of Commission Decision (EU) 2024/3081 and Article 8 of Commission Decision (EU) 2024/3082 set out that the personal data of individuals (acting on behalf of interest

⁴ That practice was first established under the previously applicable Commission Decisions 2014/838/EU, Euratom and 2014/839/EU, Euratom of 25 November 2014.

representatives) or Commission staff (other than members of the Cabinets and Commission staff holding management functions) attending meetings shall not be made public.

The Commission established in these Decisions which information is relevant, appropriate and necessary for the information of the public concerning the meetings it holds with interest representatives. It took the opportunity of the new Decisions to clarify further its decade-long policy on the processing of personal data relating to such meetings which is now extended to the minutes of such meetings. Therefore, as of 1 January 2025 and on a going-forward basis, minutes of meetings that are published in accordance with Commission Decisions (EU) 2024/3081 and 2024/3082 shall not include the name(s) or other personal data of the individual(s) representing the registered organisations. This ensures consistency with the applicable legal framework on the Transparency Register⁵ which focuses on the activities carried out by (registered) interest representatives⁶, not the individuals representing those in meetings or other activities as such. The views expressed by individuals representing interest representatives in meetings should be considered as the views of the interest representatives concerned as such.

In light of the aforementioned provisions, and for the reasons explained, the Commission considers that it is not compatible with its currently applicable rulebook and policy to ask individuals attending meetings on behalf of interest representatives if they consent to disclosing their personal data ‘when this is specifically requested’.

Furthermore, the Ombudsman suggests that the Commission should ask the ‘interest representatives’ who meet with it if they consent to disclosing their personal data. In the Commission’s view, this may lead to confusion since the ‘interest representatives’ are, as explained, the registered organisations that cannot provide consent pursuant to Article 7 of Regulation (EU) 2018/1725.

As regards the disclosure of personal data in minutes of meetings with interest representatives taken prior to the entry into force of Commission Decisions (EU) 2024/3081 and 2024/3082, or other documents, where such documents would be subject to applications for access to documents, the question should still be assessed in the light of Article 4(1)(b) of Regulation (EC) No 1049/2001 in conjunction with Article 9(1)(b) of Regulation (EU) 1725/2018. That latter article requires that personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if the recipient establishes that it is necessary to have the data transmitted for the performance of a task carried out 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. The Commission could assess the appropriateness or necessity of seeking the consent of the individual concerned to disclosing their personal data in the context of the application of that weighing exercise.

⁵ Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register (OJ L 207, 11.6.2021, p. 1) (‘Interinstitutional Agreement’).

⁶ See the definition of ‘interest representative’ set out in point (a) of Article 2 of the Interinstitutional Agreement. Article 2 of Commission Decisions (EU) 2024/3081 and point (b) of Article 2 of Commission Decision (EU) 2024/3082 set out an identical definition aligning to the Interinstitutional Agreement.

V. CONCLUSION

The Commission has carefully considered the Ombudsman suggestion for improvement and, for the reasons set out above, it takes the view that, since the minutes of meetings falling in the scope of Commission Decisions (EU) 2024/3081 and 2024/3082 shall not include personal data of individuals representing organisations in such meetings, there is no reason for the Commission to ask such individuals if they consent to disclosing their personal data.

For minutes of meetings taken prior to the entry into force of said Commission Decisions or other documents containing such personal data which are subject to an application for access to documents pursuant to Regulation (EC) No 1049/2001, the disclosure of personal data must be assessed in the light of the provisions of that Regulation in conjunction with data protection rules.

For the Commission
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