



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

The Director General

Brussels,
B1/RS/JCV

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***By registered letter with
acknowledgment of receipt***

Mr Alexander Fanta
netzpolitik.org
Rue de la Loi 155
1000 Brussels
Belgium

Advance copy by e-mail:

a.fanta.gnwu3f4nst@fragdenstaat.de

Subject: Request for access to documents

Ref.: Your request of 19 July 2019 registered under reference GestDem 2019/4197

Dear Mr Fanta,

We refer to your e-mail dated 19 July 2019 in which you submitted an application for access to documents within the framework of Regulation (EC) No 1049/2001¹.

I. SCOPE OF THE REQUEST

- *List of lobby meetings your Directorate-General held with Amazon or its intermediaries from November 2014 up to the present. The list should include: date, individuals attending and organisational affiliation, the issues discussed,*
- *Minutes and other reports of these meetings*
- *All correspondence including attachments (i.e. any emails, correspondence or telephone call notes) between your DG (including the Commissioner and the Cabinet) and Amazon or any intermediaries representing its interests in that time.*
- *All documents prepared for the meetings and exchanged in the course of the meetings between both parties in the given time frame”.*

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 (OJ L 145, 31.5.2001, p. 43) hereinafter referred to as “Regulation (EC) No 1049/2001”.

At the outset, we would like to clarify that we understand that the ‘*lobby meetings*’ in your request refer to meetings organised to discuss issues related to policy-making and implementation in the Union with organisations or self-employed individuals. Please note that those meetings are normally held by the Commissioner, Directors-General of the Commission or Members of the Cabinet. In view of that, we interpreted your request as concerning only those high-level meetings. If you wish so, you may of course submit a new request for access to documents referring to meetings with Commission officials at lower levels of hierarchy within our Directorate-General

Based on the information provided by you, we have identified seven documents falling under the scope of your request (hereinafter the 'requested documents'), namely:

1. Correspondence exchanged on 12/06/2015 between the Cabinet of Commissioner Moedas and Amazon and its attachment:
 - a. Biography of the Amazon representative requesting for a meeting.
2. Correspondence exchanged from 21/07/2016 until 16/09/2016 between the Cabinet of Commissioner Moedas and Amazon, inviting the Commissioner at the Amazon Academy on October 13th.
3. Email of 25/07/2016 from Amazon to the Cabinet of Commissioner Moedas, inviting the Commissioner at the Amazon Academy on October 13th and its attachment.
 - a. Invitation at the Amazon Academy on October 13th.
4. Correspondence exchanged from 12/09/2017 until 02/10/2017 between the Cabinet of Commissioner Moedas and Amazon, inviting the Commissioner to deliver the keynote address at the Amazon Academy and its attachment:
 - a. Invitation to deliver keynote address at the Amazon Academy.
5. Email of 15/12/2017 from Amazon to the Cabinet of Commissioner Moedas and its attachment:
 - a. Letter of 13/12/2017 requesting a meeting with Commissioner Moedas.
6. Correspondence exchanged from 15/12/2017 until 21/12/2017 between the Cabinet of Commissioner Moedas and Amazon requesting a meeting with Commissioner Moedas.

II. EXAMINATION UNDER REGULATION (EC) NO 1049/2001

After a concrete assessment of the requested documents, we are pleased to inform you that partial access can be granted, with the exception of document 1a, which must be refused in its entirety. The refused document, as well as the expunged information contained in the disclosed documents must be protected under Article 4(1)(b) of Regulation (EC) No 1049/2001 as regards the protection of privacy and the integrity of the individual, as explained below:

Protection of privacy and the integrity of the individual

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data².

² Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, ECLI:EU:C:2010:378, paragraphs 59 and 63. Whereas this judgment specifically related to Regulation (EC)

The refused document, i.e. document under number 1a, is the biography of the representative of Amazon, consisting, therefore, of personal data in its entirety. Furthermore, the disclosed documents contain personal data such as names, functions, office numbers and e-mail addresses of Commission's officials not having the function of senior management staff and of the third parties identified in the documents.

This information clearly constitutes personal data in the meaning of Article 3(1) of Regulation (EU) 2018/1725.

Pursuant to Article 9(1)(b) of Regulation (EU) 2018/1725³, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if *'[t]he 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 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'*.

According to Article 9(1)(b) of Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. 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 the requested documents and document under number 1a must be refused. Please note that the exception of Article 4(1)(b) has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

III. DISCLAIMER AND REUSE OF THE DOCUMENTS

The requested documents were drawn up for internal use under the responsibility of the relevant service of the Commission or sent by third parties.

With regards to the disclosed documents originating from third parties, please note that these are disclosed for information only and cannot be re-used without the agreement of the originator.

The disclosed documents do not reflect the position of the Commission and cannot be quoted as such.

IV. 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 Secretary-General of the Commission at the following address:

No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

³ Regulation 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, Official Journal L 205 of 21.11.2018, page 39.

European Commission
Secretary-General
Unit C.1 – Transparency, document management & access to documents
BERL 7/076
B-1049 Brussels

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

Yours faithfully,

Jean-Eric Paquet

Enclosures: The requested documents expunged from personal data, with the exception of document 1a.