



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

The Director-General

HOME.B.3

Mr Chris Jones

*To the applicant's portal account and
notification to:*

Subject: Your application for access to documents – EASE 2023/2603

Dear Mr Jones,

I refer to your request for European Commission documents registered on 4 May 2023 under the above-mentioned reference number.

You request access to “agenda and minutes of an EBSP Working Group; presentations, notes, reports and other documents presented, discussed, or used as background information for an EBSP Working Group meetings, and the documents regarding an EBSP Proof of Concept”.

I have identified the following documents as falling within the scope of your application:

- 1- Flash report: Meeting with DHS on new EBSP Working, Commission document for internal use, dated 13/07/2022, ref. ARES (2023)4144843,
- 2- Flash report: Kick-Off meeting COM/DHS Working Group on new US EBSP requirements (06/09/22), Commission document for internal use, dated 06/09/2022, ref. ARES (2023)4119093,
- 3- EU-US Working Group on EBSP, Commission document for internal use, dated 22/09/2022, ref. ARES (2023)4144961,
- 4- WORKING DOCUMENT & ANSWERS: COM-US Working Group on the U.S. Enhanced Border Security Partnership (EBSP) requirements as part of the U.S. Visa Waiver Program (VWP), Commission document for internal use, dated 04/10/2022, ref. ARES (2023)4118328,
- 5- DHS Enhanced Border Security Partnership (EBSP) Requirement, Powerpoint presentation by US Department of Homeland Security, dated September 2022, ref. ARES (2023)4118099.

Having examined the documents requested under the provisions of 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 (hereafter Regulation (EC) No 1049/2001)¹, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in first indent of Article 4(1)(a) of that Regulation (protection of public security) and third indent of Article 4(1)(a) of the Regulation (protection of international relations).

The documents which you seek to obtain contain sensitive information of ongoing discussions between the Commission and the US on the Enhanced Border Security Partnership (EBSP).

First, these documents include information on law enforcement investigative procedures that, in the hands of criminals and terrorists, could be misused against public security, for example by facilitating the bypassing of effective cross-border checks and obstructing the attempts of US authorities to prevent illegal activities.

Since public disclosure of the requested documents would undermine public security, it is prohibited by the first indent of Article 4(1)(a) of Regulation 1049/2001, according to which '*[t]he institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards public security*'.

Second, given the public security concerns outlined above, the public disclosure of the documents, which were intended to be used for official internal purposes only, would be tantamount to a breach of trust of the US authorities and could therefore undermine international relations with the US.

Consequently, they cannot be disclosed in the light of the third indent of Article 4(1)(a) of Regulation 1049/2001, which 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*'.

I have also considered whether partial access could be granted to the documents requested. However, these are entirely covered by the exceptions or the remaining parts after expunging the confidential information might be meaningless or illegible.

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal ⁽²⁾ account (available only for initial requests submitted via the portal account),

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ <https://www.ec.europa.eu/transparency/documents-request>

or by mail:

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

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

Yours faithfully,

Monique PARIAT