



**European Committee
of the Regions**

The Secretary-General

Brussels, *date of the official registration*
SGCab/SoB/RLC/ssch D 5790/2024

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Subject: Your request for access to documents 2024/2339 A

Dear Mr Deleanu,

I refer to your request for access to documents, received on 17 July 2024 and registered by the European Committee of the Regions (CoR) on 22 July 2024 under reference 2024/2339 A.

In your application you specifically request the following:

- a) access to the number of attendances at events scheduled by the CoR in 2023 and in 2024 to date (plenary sessions, committee meetings, interregional group meetings, etc.) for the following Romanian members of the CoR: Alin-Adrian Nica, Corneliu Ștefan, Csaba Borboly, Daniela Cîmpean, and Petre Emanoil Neagu;
- b) access to the expenses that the CoR reimbursed to each of them in 2023, including a detailed breakdown of these expenses and reimbursements per category (meeting allowances, flat-rate sums, travel expenses, accommodation, etc.);
- c) information on whether there is any source of information regarding the activities and results of CoR members besides the page dedicated to CoR members on the Committee's official website.

1. CoR rules on reimbursement of travel costs and payment of allowances

The CoR would like to start by explaining its rules on the reimbursement of travel costs and the payment of allowances.

The CoR members do not receive any remuneration from the CoR or from the EU budget for performing their duties for the CoR. The CoR reimburses the travel expenses actually incurred by its members for journeys to

and from Brussels and the places where CoR meetings take place, or for duly approved missions. It also pays its members flat-rate travel and meeting allowances to cover all of their expenses in the context of those journeys (such as transport at the meeting venue, parking fees, accommodation, meals, etc.), taking account of the relatively high prices in Brussels where the EU institutions hold meetings. As a general rule, the CoR also covers the travel costs of its members when they participate in external events on behalf of the CoR.

The CoR rules on the reimbursement of travel expenses and the payment of flat-rate travel and meeting allowances for members and alternates are for the most part laid down in its Regulation No 8/2017, which was slightly amended by Regulation No 20/2020. The CoR has published on its website an explanation of its travel costs scheme and the main rules for the reimbursement of travel expenses and the payment of flat-rate travel and meeting allowances, which you are invited to consult¹.

Finally, please note that this expenditure is covered by the EU budget and is duly audited by the competent institutions.

Furthermore, as you have already noted, the dates of the meetings of the CoR's constituent bodies, as well as those of the external meetings organised by the CoR, are publicly available on the CoR website².

2. Analysis of your request

The CoR has examined your request in the light of Regulation (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents, CoR Decision No 18/2020 on public access to Committee of the Regions documents, and the relevant case-law. Under this legal framework, documents are accessible on request unless an exception applies. One of these exceptions is the protection of personal data, which is laid down in Article 4(1)(b) of Regulation (EC) 1049/2001. In this regard, the CoR must abide by Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the EU institutions, bodies, offices and agencies.

2.1. Your request for information related to five Romanian members of the CoR.

The CoR considers that, in fact, your questions constitute for the most part a request for information, not a request for access to documents. A request for information relates to information that is not contained in any existing document in the possession of the EU institutions, or information that is contained in existing documents but where replying to the request would involve creating a new document. The case-law has established that *'[i]nformation may be distinguished from a document, in particular, in so far as it is defined as a data element that may appear in one or more documents'* and *'the right of access to documents held by the institutions within the meaning of Article 2(3) of Regulation (EC) No 1049/2001 applies only to existing documents in the possession of the institution concerned. An application for access that would require the [institution concerned] to create a new document, even if that document were based on information already appearing in existing documents held by it, is not, therefore, an application for partial access and does not come within the parameters of Regulation No 1049/2001'*³.

1 <https://cor.europa.eu/en/members/Pages/travel-costs.aspx>.

2 CoR meetings agenda (by year or by CoR body, commission or political group) at: <https://memportal.cor.europa.eu/Meeting/CommitteeAgenda>.

3 Judgment of the General Court of 2 July 2015 in case T-214/13, *Rainer Typke v Commission* (ECLI:EU:T:2015:448), paragraphs 54-55.

In the case at hand, it is clear that responding to your questions would require the CoR to create a new document. Therefore, under Regulation (EC) 1049/2001 and CoR Decision No 18/2020, the CoR is not obliged to create it in order to reply to your request for information. The case-law is also clear on this point: *'since none of the provisions of Regulation No 1049/2001 deals with the right of access to information as such, it cannot be inferred that the public's right of access to a [EU institution] document, which arises under Article 2(1) of that regulation, implies a duty on the part of the [EU institution concerned] to reply to any request for information from an individual'*⁴.

Despite the above, the CoR has decided to create a new document (the two Excel tables attached) to reply to your questions in an anonymised way. Their content is explained at the end of this letter.

Finally, the CoR would like to stress that it has limited resources, that requests like the present one are time-consuming and that many of its staff are currently on annual leave, which makes it difficult to reply to such requests.

2.2. The protection of personal data.

In your application you request a breakdown by category of the reimbursements received by the five Romanian members of the CoR concerned. However, as explained above, Article 4(1)(b) of Regulation (EC) 1049/2001 on public access to European Parliament, Council and Commission documents provides that access should not be granted if disclosure would undermine the privacy and integrity of the individual. This applies in particular under Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the EU's institutions, bodies, offices and agencies. In this regard, the CoR must abide by Regulation (EU) 2018/1725.

Given that your request relates to specific persons, it is clear that this information constitutes personal data within the meaning of Article 3(1) of Regulation (EU) 2018/1725 and that disclosure of these personal data to the public falls under the definition of 'processing of personal data' within the meaning of Article 3(3) of that Regulation. Consequently, as required by Article 9(1)(b) of this Regulation, the CoR must ascertain whether there is any reason to believe that the transmission of the requested documents could affect the legitimate interests of the person concerned, weigh up the various competing interests, and assess whether it would be proportionate to transmit the personal data in question for the objective pursued.

The General Court of the European Union has already ruled on a case that is fully relevant to your request. In its judgment in the *Psara* case⁵, the General Court upheld the European Parliament's decision to refuse access to documents concerning daily allowances, travel allowances and parliamentary assistance allowances received by all members of the EP, on the basis of the exception concerning the protection of personal data. Indeed, the General Court pointed out that the institutions must refuse access to a document where disclosure would undermine the protection of privacy and the integrity of the individual, in accordance with EU law on the protection of personal data⁶. According to its ruling, personal data *'may be transferred only if [the*

⁴ Judgment of the General Court of 2 July 2015 in case T-214/13, *Rainer Typke v Commission* (ECLI:EU:T:2015:448), paragraph 54.

⁵ Judgment of the General Court of 25 September 2018 in joint cases T-639/15 to T-666/15 and T-94/16, *Psara e.a. v EP* (ECLI:EU:T:2018:602).

⁶ The *Psara* judgment refers to Regulation (EC) No 45/2001 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, which was repealed and replaced by Regulation (EU) 2018/1725. The judgment referred to Article 8 of Regulation (EC) No 45/2001, which essentially coincides with Article 9(1) of Regulation (EU) 2018/1725, so its findings are still fully relevant.

See also judgment of the CJEU of 16 July 2015 in case C-615/13 P, *ClientEarth & PAN Europe v EFSA*, (ECLI:EU:C:2015:489), paragraph 32.

applicant] shows that the transfer is necessary and if there is no reason to believe that that transfer could prejudice the legitimate interests of the person concerned'. Furthermore, the institution in receipt of an application for access must initially 'make an assessment of the necessity, and thus proportionality, of the transfer of personal data in the light of the applicant's objective, satisfaction of the requirement for necessity [...], which is to be interpreted strictly, requiring the applicant to show that the transfer of personal data is the most appropriate of the possible measures for attaining the applicant's objective and that it is proportionate to that objective, which requires the applicant to provide express and legitimate reasons to that effect'⁷.

However, as required by Article 9(1)(b) of Regulation (EU) 2018/1725, the CoR has to ascertain whether there is any reason to believe that the transfer of the requested documents could affect the legitimate interests of the person concerned, weigh the various competing interests and assess whether it would be proportionate to send the personal data for the pursued objective. Furthermore, according to the case-law, the transfer of requested personal data must be the 'most appropriate of the possible measures' for attaining the pursued objective⁸, and 'the EU institution or body in receipt of the application [must] refuse to transfer the personal data if it is found that there is the slightest reason to assume that the data subjects' legitimate interests would be prejudiced'⁹.

The CoR acknowledges that its members are public figures and that their travel costs and allowances, i.e. travel expenses and flat-rate travel and meeting allowances, fall into the public sphere since they are funded with public money and are intrinsically linked to the performance of members' duties. However, the CoR considers that disclosing the actual amounts of the travel expenses and flat-rate travel and meeting allowances received by each member could lead to misinterpretations about their real nature, and in particular that there is a risk of their being maliciously portrayed as 'remuneration', which, as explained above, they are not.

In this regard, there is more than slight reason to believe that the full disclosure of the requested personal data would prejudice the legitimate interest of a member. Furthermore, as already stated, the CoR must respect the principle of proportionality and thus choose the means that impinges less on privacy while still allowing the aim pursued to be attained, namely the transparency of EU institutions and bodies.

For these reasons, which are based on Article 4(1)(b) of Regulation (EC) No 1049/2001 in combination with Article 9(1)(b) of Regulation (EU) 2018/1725, the CoR considers that the most appropriate and proportionate measure in the present case is granting partial access, under Article 4(6) of Regulation (EC) No 1049/2001, to a document that indicates, for each of the relevant meetings, whether Mr Nica, Mr Ștefan, Mr Borboly, Ms Cîmpean, and Mr Neagu were reimbursed for their travel expenses and paid their flat-rate travel and/or meeting allowances, but without displaying the actual amounts reimbursed or paid to them.

Please note that, pursuant to Article 15(3) of Regulation (EU) 2018/1725, the CoR must inform Mr Nica, Mr Ștefan, Mr Borboly, Ms Cîmpean, and Mr Neagu in advance that their personal data are being processed for a purpose other than that for which they were collected. For this reason, the CoR has informed each of them separately that, as a result of a request for public access to documents, it will grant access to the aforementioned information, although without mentioning your identity or the reasons for your request.

⁷ *Psara* judgment, already mentioned, paragraphs 69 and 72.

⁸ *Ibidem*. See also judgment of the General Court of 15 July 2015 in case T-115/13, *Dennekamp v EP* (ECLI:EU:T:2015:497), paragraphs 59 and 77.

⁹ Judgment of the General Court of 15 July 2015 in case T-115/13, *Dennekamp v EP* (ECLI:EU:T:2015:497), paragraph 117.

2.3. The impact of CoR opinions.

Finally, you ask about any other source of information related to the activities of the members of the CoR and their results besides the details published on the dedicated webpage for members of the CoR (<https://memberspage.cor.europa.eu/members>).

In this regard, the CoR would draw attention to its annual impact reports, which are available on its website¹⁰. These impact reports have been produced since 2010; though they do not focus on individual members, they provide an overview of the work and main achievements of the CoR within the EU decision-making process. This includes information on the CoR opinions drawn up by ‘rapporteurs’, who are members of the CoR. The report relating to 2023 is already available¹¹.

2. Conclusion

In view of all the considerations set out above, the CoR has created two documents (the Excel tables enclosed with this letter) to reply to your request for information.

The first Excel table (‘Participation’) lists all reimbursable meetings attended in 2023 and in the first semester of 2024 by the five Romanian members of the CoR whose information you requested. There is one tab for each member. The table only includes participation in reimbursable meetings. In this regard, it is worth noting that interregional group meetings are usually held on the same day as the plenary session and no attendance register is taken; these non-reimbursable meetings are therefore not included. The same applies where a member attended several meetings on the same day. In this situation, only the reimbursed meetings are included in the table. The last column, meeting category, uses unofficial meeting categories to enable you to filter the table by the different types of meeting.

The second Excel table (‘Payments’) lists the entitlements incurred and settled for reimbursable meetings in 2023. The information relates to expenses for meeting attendance. In addition to reimbursement of costs for attending specific meetings, two members (Mr Borboly and Mr Nica) also received further lump-sum payments for their horizontal office expenses as rapporteur or chair of the national delegation. These amounts are added separately. The ‘Travel’ column covers both the reimbursement of travel costs incurred by members and/or the payment of travel costs directly to CWT (formerly Carlson Wagonlit Travel) if the member used that service to arrange their travel. The ‘Allowance’ column covers both the meeting allowance and/or the travel allowance to which a member is entitled if they are eligible for the meeting allowance¹².

In accordance with Article 7(2) of Regulation (EC) No 1049/2001 and 5(1) of CoR Decision No 18/2020, you are entitled to make a confirmatory application requesting the CoR to review its position. This confirmatory application should be sent within 15 working days of receipt of this letter to the following address:

¹⁰ <https://cor.europa.eu/en/our-work/Pages/Opinions.aspx#0>.

¹¹ https://cor.europa.eu/en/our-work/Documents/Opinions/CoR_Impact_Report_2023_January_2024.pdf.

¹² Reimbursement of travel costs and payment of allowances to which the members of the CoR are entitled are laid down in CoR Regulation 8/2017 on the reimbursement of travel expenses and the payment of flat-rate travel and meeting allowances for Members: <https://cor.europa.eu/en/members/Documents/Regulation%20No%208-2017%20on%20the%20reimbursement%20of%20travel%20expenses%20and%20the%20payment%20of%20flat-rate%20travel%20and%20meeting%20allowances%20for%20members%20and%20alternates/cor-2017-04889-00-01-regl-tra-en.pdf>.

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Rue Belliard/Belliardstraat 101
B-1040 Brussels*

or by e-mail to: transparence@cor.europa.eu

Yours sincerely,

Petr Blížkovský

Appendixes:

- I. Excel table listing the meetings covered by the application and indicating whether Mr Nica, Mr Ștefan, Mr Borboly, Ms Cîmpean, and Mr Neagu attended them.
- II. Excel table indicating whether Mr Nica, Mr Ștefan, Mr Borboly, Ms Cîmpean, and Mr Neagu were reimbursed for their travel expenses and paid their flat-rate travel and/or meeting allowances.