

Pfizergate: General Court Rules Against Ursula von der Leyen

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On May 14, 2025, the General Court of the European Union issued an important decision¹ concerning the SMS exchanges between European Commission President Ursula von der Leyen and Pfizer CEO Albert Bourla. These messages, sent between January 2021 and May 2022, related to negotiations over a contract to purchase vaccines produced by the American giant for a total estimated value of 35 billion euros. The Court's ruling overturned the European Commission's decision to withhold the messages, following a transparency request filed by American journalist Matina Stevis, Brussels correspondent for *The New York Times*.

While this decision will undoubtedly have political repercussions, it also contains legal elements that significantly advance the notions of transparency and good governance in an era of digitized exchanges.

Background to the Decision

In May 2022, Matina Stevis submitted a formal request to the European Commission seeking access to SMS messages exchanged between Ursula von der Leyen and Albert Bourla. This request was rejected on the grounds that the Commission was not in possession of such documents. On January 23, 2023, *The New York Times* brought the case before the General Court of the European Union, arguing that the refusal constituted a violation of the right of access to public documents as enshrined in EU law.

From the outset, this affair took a political turn, particularly after revelations in April 2021 that EU vaccine orders had been negotiated informally by the Commission President, via simple SMS messages and phone calls. These practices, perceived as opaque, fueled controversy and sparked criticism of the way in which European public health policy was conducted, committing considerable sums without control.

Illegal Refusal by the Commission

In its May 14, 2025 judgment, the General Court of the EU found that the Commission had breached its duty of transparency and considered that its refusal to provide the requested documents was unjustified, especially since no plausible explanation, with concrete and verifiable elements, was provided to support this assertion. The Commission merely argued that it was not in possession of these documents. Meanwhile, the applicants—relying in part on interviews conducted by Matina Stevis with Ursula von der Leyen—presented credible claims regarding the existence of the messages. Thus, the Court ruled that this refusal violated **Article 296 of the TFEU**², which requires EU institutions to state the reasons for their decision in a clear and comprehensible manner.

¹ <https://curia.europa.eu/juris/document/document.jsf?docid=299492>.

² "Where the Treaties do not specify the type of act to be adopted, the institutions choose it on a case-by-case basis, in compliance with the applicable procedures and the principle of proportionality. Legal acts shall state the reasons on which they are based and shall relate to the proposals, initiatives, recommendations, requests or opinions provided for in the Treaties. When a draft legislative act is referred to them, the European Parliament and the Council shall refrain from adopting acts not provided for by the legislative procedure applicable to the area concerned."

The judges also referred to a special report by the European Court of Auditors on the EU's vaccine³ purchases. The report confirmed the **informal negotiation process**, highlighting that the Commission "had not provided any information on the preliminary negotiations of the above-mentioned contracts, such as the timetable for the negotiations, the minutes of the discussions, and the details of the agreed terms and conditions."

While there is a **presumption of veracity** attached to the Commission's statement that it did not possess the documents, the Court found that the applicants managed to overturn it⁴ by relying on "relevant and concordant evidence describing the existence of exchanges, in particular text messages, between the President of the Commission and Pfizer's CEO."

Substantively, the Court concluded that the Commission had infringed the **fundamental principle of the right of access to documents (Article 15 of the TFEU⁵)**, "which derives from the imperative of transparency and presupposes that the institutions concerned proceed, as far as possible and in a non-arbitrary and foreseeable manner, to the establishment and conservation of documentation concerning their activities." Accordingly, there is a **principle of conservation**, which must not contravene the principle of data protection, and of **diligence** inherent in the **principle of good administration** enshrined in **Article 41 of the EU Charter of Fundamental Rights**.⁶

Since the Commission had not given a precise reason for the absence of these documents, its argument that the messages would have been recorded if they had contained substantial information was not considered sufficient by the European judges.

Broadening the Notion of 'Document'

The legal reasoning which led the Court to take this decision was based on a broad interpretation of the concept of "document" referred to in **Article 3 of Regulation (EC) No.º 1049/2001**, which defines a document as "any content, whatever its medium [...] concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility."

³ https://www.eca.europa.eu/en/publications/sr22_19.

⁴ The Commission claims that the present case is similar to *Kargins v. Commission* (T-110/23, unreported, EU:T:2024:805). However, the applicant in the aforementioned case had not succeeded in rebutting the presumption of non-existence of the requested documents, unlike the applicants in the present case.

⁵ "Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium, subject to the principles and conditions to be laid down in accordance with this paragraph.

⁶ "(1) Everyone has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union. 2. This right includes in particular: a) the right of every person to be heard before any individual measure adversely affecting him is taken; b) the right of every person to have access to the file concerning him, while respecting the legitimate interests of confidentiality and of professional and business secrecy; c) the obligation of the administration to give reasons for its decisions. 3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States. 4. Any person may address the institutions of the Union in one of the languages of the Treaties and must receive a reply in the same language."

The digital dimension of communications, in this case the exchange of SMS messages, is thus included within the scope of interpretation of this regulation. It is not the medium that counts, but the content of the communications, which, even if they are informal, can be the subject of an access request if they are **linked to the activity of the institution concerned**.

This interpretation of the above-mentioned regulation is in line with the realities of today's working and communication tools. The judgment strengthens the legal framework for transparency by curbing the possibility for institutions to deny access on the basis that a communication was informal or ephemeral. The decision also builds upon the trend towards a broader reading of the principle of the right of access to documents—notably present in *Access Info Europe* (C-280/11 P) and *De Capitani* (T-540/15)⁷—by adding digital communications and applying an **obligation of traceability and preservation**. Moreover, it strictly limits the possibility of refusing to supply such access, requiring the institutions concerned even having to **actively seek out these digital communications** in the event of an access request.

The Implications of this Decision

In legal terms, the impact of this decision is significant. By restricting the possibility of circumventing the right of access to documents through the use of digital tools, it has revolutionized the internal workings of institutions. They will now be expected to archive and, where appropriate, make digital communications accessible—just as they would traditional documents.

At this stage, this development is taking place within the framework of a broad interpretation of Regulation 1049/2001, but new measures will undoubtedly have to be adopted to optimize the traceability of these communications and establish a clear legal framework making it possible to retain messages exchanged. This ruling therefore makes up for lost time and paves the way for legal developments that will ensure a better match between the concept of official document and contemporary communication tools.

Because it extends the scope of an official document and because of its symbolic significance, since it directly concerns the President of the European Commission, this decision foreshadows a rise in requests for access, a procedure which will thus have a more political dimension than in the past. In this case, the political dimension is important, and a reaction from the President of the Commission is expected. For the time being, the decision has not been appealed, although the Court obviously did not rule on the content of the messages exchanged with Pfizer's CEO. Nevertheless, the May 14 ruling increases the likelihood that the content of these SMS messages will be revealed, which will have an impact on Ursula von Leyen's second term of office.

⁷ In the *Access Info Europe* case (C-280/11 P), the Court of Justice ruled that the transparency of the EU institutions justifies public access to legislative documents, even if this may lead to political pressure, unless a concrete impairment of the decision-making process is demonstrated. In *De Capitani* (T-540/15), the Court reinforced this principle, ruling that the European Parliament must give access to trilogues documents, which are an integral part of the legislative process, in the name of the right of access to documents.

Pfizergate: A Decisive Case for Ursula von der Leyen's Political Future?

In its ruling, the General Court of the EU was asked whether the Commission had the right to refuse access to the documents requested by the applicants. It answered this question firmly in the negative, justifying why it had done so by recalling the rules in force and extending their interpretation. As outlined above, this decision marks a turning point in EU jurisprudence and is rightly regarded as a landmark case.

However, the Court did not—and indeed was not tasked to—answer the question of why the Commission had refused to make the documents in question public. At this stage, this question can only be answered speculatively, but the May 14 ruling will certainly speed up the process.

The Commission's reaction to this decision, not to mention the potential revelation of the messages exchanged with Pfizer's CEO, will indeed provide valuable clues to understanding the heart of the matter. For the time being, however, the Commission's lack of cooperation is enough to only fuel ongoing suspicions. The pressure of public opinion and political players in opposition to the President of the European Commission is mounting, especially in the absence of a compelling justification for withholding the documents.

Ursula von der Leyen initially escaped prosecution. Frédéric Baldan had filed a complaint in April 2023 with the Liège public prosecutor's office for "usurpation of

functions and title," "destruction of public documents," and "illegal taking of interests and corruption." Yet, the complaint was ultimately deemed inadmissible in January 2025 by the Liège indictment chamber, to which Baldan had turned.

Still, the May 14 ruling has rekindled this debate, and perhaps especially in its "illegal taking of interest and corruption" section. The absence of details surrounding a €35 billion vaccine order with such an enormous impact on public health is difficult to justify and inevitably invites questions. These go beyond mere administrative shortcomings and point toward the potential existence of practices that undermine core principles of sound EU governance, namely transparency, accountability, and the rule of law.

Conclusion

The ruling of May 14, 2025 marks a decisive milestone in the evolution of EU law concerning transparency in the work of the European institutions (Article 15 TFEU), good administration (Article 41 of the Charter of Fundamental Rights), and the right of access to documents (Regulation 1049/2001). It not only extends the definition of a "document" to include content exchanged by digital means—provided it relates to the functions performed by institutions—but also serves as a basis for the probable development of legal frameworks in this area.

Beyond its strong legal impact, this decision also carries a definite political weight, exposing European Commission President Ursula von der Leyen to intensifying scrutiny amid the unfolding Pfizergate controversy. More than just a legal turning point, this judgment may ultimately prove to be a defining moment in contemporary European politics.