



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate B

Brussels,  
SG/B.3/MIA-DCB

Ms Vicky Cann  
CEO  
Rue d'Edimbourg 26  
B-1050 Brussels

By e-mail:

[ask+request-1877-2c0b82be@asktheeu.org](mailto:ask+request-1877-2c0b82be@asktheeu.org)

**Subject: Your application for access to documents in accordance with Regulation 1049/2001– Ref. GestDem 2015/1980**

Dear Ms Cann,

We refer to your e-mail dated 2 April 2015 and registered on the same date under the above-mentioned reference number.

*In your e-mail, you request ... "copies of all applications by Karel de Gucht which seek Commission authorisation for new professional activities under the commissioner code of conduct. I would further like to request any emails, correspondence and meeting notes which relate to these applications; all opinions from the ad hoc ethical committee on each case; and copies of the Commission's final decision in each case."*

I have identified 16 documents falling within the scope of your request:

1. Letter of Mr De Gucht to Ms Day of 25.02.2015 [Ref. Ares(2015)888820];
2. Letter of Mr De Gucht to Ms Day of 25.02.2015 [Ref. Ares(2015)885908];
3. Letter of Mr De Gucht to Ms Day of 25.02.2015 [Ref. Ares(2015)887342];
4. Letter of Mr De Gucht to Ms Day of 25.02.2015 [Ref. Ares(2015)888351];
5. Letter of Mr De Gucht to Ms Day of 25.02.2015 [Ref. Ares(2015)889277];
6. LS Consultation E-mail of 04.03.2015 and e-mail of 05.03.2015 [Ref. Ares(2015)970874];
7. Commission decision C(2015)1610 of 13 March 2015;
8. PV (2015) 2120 of 18 March 2015;
9. Letter of Ms Day to Mr De Gucht of 18.03.2015 [Ref. Ares(2015)1198048];
10. Note of Ms Day to the Members of the Ad Hoc Ethical Committee of 09.03.2015 [Ref. Ares(2015)1035917];

11. Opinion of the Ad Hoc Ethical Committee of 16.03.2015 [Ref. Ares(2015)1141467];
12. LS consultation E-mail of SG of 26.03.2015 and reply of the LS by e-mail of 08.04.2015 [Ref. Ares(2015)1350679];
13. Commission Decision C(2015)2476 of 10 April 2015;
14. PV (2015) OJ 2122 of 15 April 2015;
15. Letter of Ms Day to Mr De Gucht of 15.04.2015 [Ref. Ares(2015)1608969];
16. Note of Ms Day to the Ad Hoc Ethical Committee of 15.04.2015 [Ref. Ares(2015)1611296].

You will find a detailed list enclosed.

I would like to call your attention to the fact that document n° 10 contains in its enclosures, templates also called "information fiche" to the attention of the Ad Hoc Ethical Committee. The information in this document can be found in the opinion of the Committee and in the Commission's decision disclosed below. Consequently, I understand that the content of this fiche is of no interest to you. If you do not share this view, please let us know.

Please note that this reply covers the decisions adopted by the Commission in its 2120<sup>th</sup> and 2122<sup>th</sup> meetings of 18 March 2015 and 15 April 2015 on Mr De Gucht's requests for authorisation of several post-mandate activities. Therefore, your recent request for access to documents Gestdem n° 2015/2373 registered on 23 April 2015, concerning the Commission's decision taken on 15 April 2015 which is addressed in this reply, is devoid of purpose.

## **1. PUBLIC DOCUMENTS**

Documents n° 8 and 14 contain the extracts of the minutes of the Commission meetings of 18 March 2015 and 15 April 2015 in which the decisions on Mr De Gucht post-mandate activities were adopted. Please note that the minutes are already available to the public and therefore, copies are not enclosed.

## **2. CONCLUSIONS UNDER REGULATION 1049/2001**

Following the examination of your request and of the documents concerned, I am pleased to grant you:

- Full access to the cover notes to documents n° 10 and 16. Please note that the deleted parts of the cover note to document n°16 contain information on decisions regarding other former Commissioners, which are not covered by your request and therefore, fall outside its scope. However, the deleted parts of the document are covered by the scope of your remaining requests concerning post-mandate activities of other former Commissioners (n° 2015/1981, 2015/2370, 2015/2375, 2015/2376 and 2015/2377) and will be examined in the corresponding replies;
- Partial access to the notes and the cover e-mails accompanying documents n° 1, 2, 3, 4, 5, 6, 9, 11, 12 and 15. Partial access is also granted to the draft decisions attached to documents n° 6 and 12 and to the documents n° 7, 11 and 13.

You will find copies enclosed.

Please note that the decision of the Commission attached to document n° 9 corresponds to document n° 7 and those attached to documents n° 15 and 16 correspond to document n°13.

The reasons for the refusal of the deleted parts of the above-mentioned documents are set out below.

The deleted parts of the above-mentioned documents n° 1, 2, 3, 4, 5, 9, and 15 contain the e-mail address and the postal address of the former Commissioner as well as details on the remunerated activities (with the exception of document n° 4) and for obvious reasons this is personal data covered by the exception provided for in Article 4 (1) (b) of Regulation 1049/2001. This is also the case of the deleted parts in the cover e-mails accompanying documents n° 6, 11 and 12, which contain the names e-mails and telephones of the Commission's officials in charge of the file. The deleted parts in the text of the draft decisions attached to documents n° 6 and 12 and in the documents n° 7, 11 and 13 refer to contractual details related to envisaged remunerations. Disclosing this information would reveal personal data and may undermine the privacy of the concerned Commissioner as well as of Commission officials.

In its judgment in the *Bavarian Lager* case<sup>1</sup>, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No. 45/2001<sup>2</sup> (hereinafter the 'Data Protection Regulation') becomes fully applicable.

The concerned documents contain elements which undoubtedly constitute personal data in the meaning of Article 2(a) of Regulation (EC) No 45/2001, as they reveal information about an identified or an identifiable person. According to Article 8(b) of the Data Protection Regulation, which is fully applicable in this case, personal data shall only be transferred to recipients if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced.<sup>3</sup> Those two conditions are cumulative.<sup>4</sup>

I consider that in the present case the necessity of disclosing the aforementioned personal data to you has not been established in your request.

---

<sup>1</sup> Judgment of the Court of Justice of 29 June 2010, Case C-28/08P, *European Commission v The Bavarian Lager Co. Ltd.*

<sup>2</sup> Regulation (EC) 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, Official Journal L 8 of 12.1.2001

<sup>3</sup> Cf. Judgment of the Court of 20 May 2003 in joined cases C-465/00, C-138/01 and C-139/01, preliminary rulings in proceedings between *Rechnungshof* and *Österreichischer Rundfunk*, paragraph 73.

<sup>4</sup> Judgment of the Court (Grand Chamber) of 29 June 2010 in case C-28/08 P, *Commission v Bavarian Lager*, paragraphs 56, 63, 68, 76-79.

Consequently, access to personal data contained in the relevant parts of the above-mentioned documents has to be refused on the basis of the exception provided for in Article 4 (1) (b) of Regulation 1049/2001.

If you wish to appeal against this decision, you should write to the Commission Secretary-General at the address [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu). You have fifteen working days from receipt of this letter in which to appeal.



Marianne Klingbeil  
Director SG B f.f.

Annexes

Cc: [SG-DOSSIERS-ACCES@ec.europa.eu](mailto:SG-DOSSIERS-ACCES@ec.europa.eu)