



EUROPEAN COMMISSION

LEGAL SERVICE
The Director General

Mr Vinzenz Zinser
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Germany

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BY E-MAIL AND REGISTERED MAIL WITH ACKNOWLEDGMENT OF RECEIPT

Subject: Request for access to documents

Ref.: Your request registered on 13 April 2016 under reference GestDem 2016/1901

(Initial request of 16 June 2015 – registered under reference GestDem 2015/3313 - fair solution agreement)

Dear Mr Zinser,

I refer to your request mentioned above for access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹ concerning "*all Legal service documents about Brussels Ila Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000*".

Your request, initially submitted on 16 June 2015, was registered according to the fair solution we agreed upon on 27 July 2015². According to the list annexed to that fair solution, on 20 January 2016 the Legal Service sent the first reply to your request concerning four of the documents in the list³. On 13 April 2016, the Legal Service sent the second reply concerning the first four documents of the list⁴. The present reply

¹ OJ L 145, 31.05.2001, page 43.

² Ares(2015)3146432 - 27/07/2015.

³ Ares(2016)304525 - 20/01/2016

⁴ Ares(2016)1758688 - 13/04/2016

concerns 8 documents from the Legal Service, corresponding to numbers five to twelve of the fair solution list mentioned above, which are the following:

1. Note of the Legal Service to DG JAI of 24 September 2001 (reference JUR(2001)006839).
2. Note of the Legal Service to DG JAI of 11 October 2001 (reference JUR(2001)006870).
3. Note of the Legal Service to Mr. Petite (Director General of the Legal Service at that time) of 4 December 2001 (reference JUR(2001)006940).
4. Note of the Legal Service to DG JAI of 15 June 2002 (reference JUR(2002)070153).
5. Note of the Legal Service to DG JAI of 28 June 2004 (reference JUR(2004)070408).
6. Note of the Legal Service to DG JAI of 5 July 2004 (reference JUR(2004)070425).
7. Note of the Legal Service to DG JAI of 24 August 2004 (reference JUR(2004)070546).
8. Note of the Legal Service to DG JAI of 24 October 2004 (reference JUR(2004)070679).

1. ASSESSMENT

After a concrete assessment of the documents, I am pleased to inform you that, in accordance with Regulation 1049/2001 full access can be granted to the eight documents with the exception of the handwritten signatures, the names and the contact details of the officials working for the Commission, since this information is covered by the exception provided for in Article 4(1)(b) ("*protection of personal data*")⁵.

2. PROTECTION OF PERSONAL DATA

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable⁶. In accordance with the exception provided for in Article 4(1)(b) ("*protection of personal data*") of Regulation 1049/2001 the names, initials of the names, work addresses, telephone numbers and e-mail addresses of the staff members not having the function of senior management staff at the Commission, as well as the handwritten signatures have been removed from the requested documents.

⁵ "The institutions shall refuse access to a document where disclosure would undermine the protection of: [...] (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data".

⁶ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. Those two conditions are cumulative.

I consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Accordingly, the requested documents are disclosed expunged from this personal data.

If you wish to receive the expunged personal data, I invite you to provide us with arguments showing the need to have the personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data would be disclosed.

Please note that the exception of Article 4(1)(b) of Regulation 1049/2001 has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

Should you disagree with the assessment that the expunged information is personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled to make a confirmatory application requesting that the Commission review this position in accordance with the provisions and rules set out below.

3. REUSE OF THE DOCUMENTS

You may reuse these documents free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

4. MEANS OF REDRESS

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

The Secretary General will inform you of the result of this review within 15 working days from the date of registration of your request. You will either be given access or your request will be rejected in which case you will be informed of how you can take further action.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Luis Romero Requena', with a large, stylized initial 'L'.

Luis ROMERO REQUENA

Attachments: 8