



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate C - Asia and Latin America

Far East

The Head of Unit

Brussels,
DG TRADE C.1/ (2017) 5988096

By registered letter with acknowledgment of receipt

Ms Lora Verheecke
Corporate Europe Observatory (CEO)
26, rue d'Edimbourg
1050 Bruxelles

Advance copy by e-mail:

ask+request-4496-694fdcd8@asktheeu.org

Subject: Your application for access to documents – ref: GestDem 2017/4216

Dear Ms Verheecke,

We refer to your e-mail dated 17/07/2017 in which you make a request for access to documents under Regulation (EC) No 1049/2001¹ ("Regulation 1049/2001"), which was registered on 18/07/2017 under the above-mentioned reference number.

Please accept our apologies for the delay in answering to your request, which is mainly due to a high number of access to documents being processed at the same time by DG TRADE, as well to some resource constraints. It was also necessary to consult a number of other Commission services about specific documents related to your request.

1. SCOPE OF YOUR REQUEST

You requested access to:

"1. Any documents since 1st January 2010, including briefings, reports, correspondence (email or other), where the EU-Japan Business Round Table is concerned or mentioned.

2. A list of meetings, as well as agendas and minutes any other reports of such meetings, since 1st January 2010, between officials/representatives/experts of DG Trade and officials/representatives of the EU-Japan Business Round Table."

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

You agreed, on 7 August 2017, to reduce the scope of your request by eliminating the initially identified documents prior to 2014. The scope of your request concerns therefore documents from 2014 to 2017.

We provide in Annex 1 a revised list of documents which fall under the scope of your request. For each of them the list contains a description, and indicates whether parts are withheld and if so under which ground pursuant to Regulation 1049/2001.

As indicated in Annex 1, and after a close examination, we have come to the conclusion that four documents of the initial list sent to you are out of the scope of your request, as they concern topics other than your request. In addition, two documents concern the replies to previous access to documents requests filed by you. Therefore these documents are not part of the assessment contained in this letter.

Please note that documents 7, 10 and 13 are publicly available online, as well as some of the attachments to documents 1, 3, 4, 8 and 11. You can find in Annex 1 a link to the website of publication.

I am glad to inform you that access can be granted to the content of the remaining identified documents. While document 17 is fully disclosed, some personal data have been withheld in the remaining documents in accordance with Article 4(1)(b) of Regulation 1049/2001. The legal reasoning underlying the protection of these personal data is provided below.

In line with the Commission's commitment to ensure transparency and accountability², the names of the Members of Cabinets and of the Directors-General are disclosed. For private bodies and companies, the names of their main representatives are also disclosed.. Copies of the accessible documents are enclosed.

Article 4(1) (b) of Regulation 1049/2001 provides that “[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data”.

The applicable legislation in this field is 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 data³.

² See Commission decisions C(2014) 9051 and C(2014) 9048 of 25 November 2014.

³ OJ L 8, 12.1.2001, p. 1. The Court of Justice has ruled that “where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data” “the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety” (see judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64).

Article 2(a) of Regulation 45/2001 provides that *"personal data' shall mean any information relating to an identified or identifiable natural person [...]"*. In this respect, the jurisprudence of the EU Courts has clarified that activities of a professional nature may fall within the notion of *'private life'*⁴ and that *"surnames and forenames may be regarded as personal data"*⁵, including names of the staff of the institutions⁶.

In accordance with Article 8(b) of Regulation 45/2001 personal data may be transferred to recipients if they establish *"the necessity of having the data transferred"* and additionally *"if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced"*⁷. I consider on the basis of your application, that these conditions have not been met. Therefore, in order to ensure the protection of the privacy and integrity of the individuals concerned, the personal data in question cannot be transferred.

In case you would disagree with the assessment provided above, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles

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

Yours sincerely,

Philippe DUPONTEIL

Encl: - List of documents (annex 1)
- Disclosed documents

⁴ Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

⁵ Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

⁶ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

⁷ The Court of Justice has clarified that *"it is for the person applying for access to establish the necessity of transferring that data"* (C-127/13 P, paragraph 107; see also judgment in C-28/08 P *Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77).