



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

Director-General

Brussels, **28. 09. 2017**

Ms Margarita da Silva
CEO
Rue d'Edimbourg 26
1050 Brussels
By email: ask+request-4617-
ff127b5d@asktheeu.org

Subject: Your application for access to documents – Ref /GestDem No 2017/5105

Dear Ms da Silva,

I refer to your e-mail dated 6 September 2017 and registered on 7 September 2017 by which you make a request for access to documents under the above mentioned reference number.

Your application concerns *"documents which relate to any article 16, article 12B and article 40 (staff regulations) applications made by Kevin Coates, Head of Unit in the Cartels Unit of DG Competition, since June 2016"*. In particular, you *"request a note of all Mr. Coates' job titles at the Commission including dates held; copies of any application(s) that he has made under article 12b, 16 and 40 to undertake a new professional activity; and all documents (correspondence, emails, meeting notes, etc.) related to the authorisation of the new role or roles."*

I have examined your request under the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

No document relating to Article 16 of the Staff Regulations has been identified.

Within the timeframe you indicated (since June 2016), one document has been identified: one request for authorisation of an outside activity during leave on personal grounds submitted by Mr Coates in the framework of Article 40 of the Staff Regulations, read in conjunction with Article 12b thereof. I have also identified correspondence within Commission services or between Commission services and Mr Coates pertaining to the underlying internal procedures concerning this type of requests for authorisation.

The documents you requested contain personal data relating to the past and present occupational activities of Mr Coates. It is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, also in his professional capacity,

are correctly protected. This is why I consider that the exception foreseen in Article 4(1)(b) of Regulation No 1049/2001 applies.

As for the correspondence between the Commission services and Mr Coates, the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 applies. Such exception is related to the protection of the Commission's decision-making process even after the decision of the Appointing Authority has been taken. In addition, in the absence of an overriding public interest, the exception to the right of access cannot be waived.

While I have also considered the possibility of granting partial access on the basis of Article 4(6) of Regulation (EC) No 1049/2001, I have concluded that this would equally undermine the protection of personal data.

Against this background, I can nevertheless provide you with the following general information on the process to which your request relates.

The request that Mr Coates submitted for an outside activity while on Leave on Personal Grounds relates to a position as a partner in the Covington & Burling law firm, from 16 March 2017 until 15 March 2018. This activity would be a continuation of the same activity approved and carried out during leave on personal grounds the previous year.

Following the consultation process required for this type of requests, the Appointing Authority gave its approval to carry out this activity, under certain limited conditions aimed at preventing any potential conflict of interest. Mr Coates was requested not to work on any cases on which he was involved since he joined the cartel directorate at the end of 2012. He was also requested not to have any professional contact with DG Competition for twelve months and to report to the Commission any potential conflict of interest situation.

Mr Coates was also reminded of the specific staff obligations as laid down in Title II and Articles 17 and 40 of the Staff Regulations.

Furthermore, I can provide you with some information on the last post held by Mr Coates, before he went on Leave on Personal Grounds and with regard to the relevant period assessed as regards any potential conflict of interest:

- from 1 November 2012 to 15 March 2016 he was Head of Unit in the Cartels Unit in DG Competition.

I would like to remind you that Corporate Europe Observatory remains subject to the provisions implementing Directive 95/46/EC on the protection of individuals with regard to the processing of personal data according to which personal data must, inter alia, be processed fairly and lawfully and subject to the unambiguous consent of the data subject concerned.

Finally, please be informed that a copy of this letter will be sent to the person concerned.

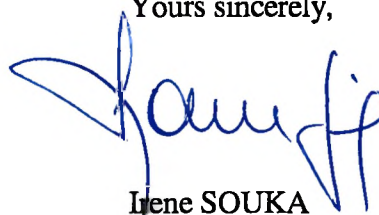
In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

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 5/327
B-1049 Brussels

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

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Irena Souka', with a stylized flourish at the end.

Irena SOUKA