



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate G - Trade Strategy and Analysis, Market Access
Market Access, Industry, Energy and Raw Materials

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By registered letter with acknowledgment of receipt

Max Bank
on behalf of LobbyControl
LobbyControl
Am Justizzentrum 7
50939 Cologne
Germany

Advance copy by email:

ask+request-4638-b23c5a45@asktheeu.org

Subject: Your application for access to documents – Ref. GestDem No 2017/5325

Dear Mr Bank,

I refer to your application of 14 September 2017 in which you made a request for access to documents in accordance with Regulation (EC) No 1049/2001¹, registered on the same date under the abovementioned reference number.

You would like to receive access to:

- a) "a list of meetings of DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and BusinessEurope in which the Trade in Services Agreement (TiSA) or the Japan-EU Free Trade Agreement JEFTA was discussed (between January 2017 and today, i.e. 14.09.2017);*
- b) minutes and other reports of these meetings;*
- c) all correspondence (including emails) between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and BusinessEurope in which the Trade in*

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.

Services Agreement (TiSA) or the Japan-EU Free Trade Agreement JEFTA was discussed (between January 2017 and today, i.e. 14.09.2017)".

We have identified the following documents that fall within the scope of your request:

1. the report of a meeting between representatives of DG Trade and Business Europe that took place on 19 January 2017 (Ares(2017)351401) ("**document 1**");
2. the report of a meeting of the BusinessEurope International Relations Committee that took place on 21 February 2017 and was attended by Mr Jean-Luc Demarty, Director General of DG Trade (Ares(2017)1028469) ("**document 2**");
3. a letter from Commissioner Cecilia Malmström to Mr Markus Beyer, Director-General of BusinessEurope (Ares(2017)877946) ("**document 3**").

I am glad to inform you that **access can be granted to the content of these documents**. However, some personal data have been withheld in documents 1 to 3 in accordance with Article 4(1)(b) of Regulation 1049/2001. Moreover, parts of document 2 contain information that is not within the scope of your request; therefore, only those parts related to your request have been disclosed. Names of the Commissioner, the Director General of DG Trade and the Director General of BusinessEurope are all 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 45/2001². In this respect, 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"³.

Article 2(a) of Regulation 45/2001 provides that "'personal data' shall mean any information relating to an identified or identifiable natural person [...]". The Court of Justice has confirmed that "there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'"⁴ and that "surnames and

² Regulation (EC) No 45/2001 of the European Parliament and the 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, OJ L 8, 12.1.2001, p. 1.

³ 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.

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.

forenames may be regarded as personal data"⁵, including names of the staff of the institutions⁶.

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*" and additionally "*if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced*". The Court of Justice has clarified that "*it is for the person applying for access to establish the necessity of transferring that data*"⁷.

I consider that you have not established the necessity of having these personal data transferred to you. Moreover, it cannot be assumed, on the basis of the information available, that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned.

In case you would disagree with the assessment that the redacted data are personal data which can only be released if such disclosure is legitimate under the rules of personal data protection, 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
1049 Bruxelles

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

Yours sincerely,



Francisco PÉREZ-CAÑADO

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 *Id.*, paragraph 107; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 77.