



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-1708-30244d82@asktheeu.org

Subject: Your application for access to documents in accordance with Regulation 1049/2001– Ref. GestDem 2015/562

Ref: My reply of 9 February 2015 Ares(2015)583542

Dear Ms Cann,

Further to the above-mentioned reply, I am pleased to grant you partial access to the following documents:

1. E-mail of 26.11.2014 [Ref. Ares(2014)3952332];
2. E-mail of 02.12.2014 Complementary information [Ref. Ares(2014)4023468];
3. E-mail of 17.12.2014 [Ref. Ares(2014)4271810];

You will find the copies enclosed.

However, access to the deleted parts of documents n° 1, 2, and 3 has to be refused for the following reasons.

The deleted parts of documents n° 1, 2 and 3 contain the e-mail address of the former Commissioner as well as other personal data regarding her future career perspectives. These documents also contain the names and the e-mails of the Commission's officials in charge of the file. For obvious reasons this is personal data covered by the exception provided for in Article 4 (1) (b) of Regulation 1049/2001.

Disclosing this information would reveal personal data and may undermine the privacy of the concerned former Commissioner and of the Commission's officials.

In its judgment in the *Bavarian Lager* case¹, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No. 45/2001² (hereinafter the 'Data Protection Regulation') becomes fully applicable.

Article 2(a) of Data Protection Regulation provides that "*personal data*' shall mean any information relating to an identified or identifiable person [...].As the Court of Justice confirmed in Case C-465/00 (*Rechnungshof*)³, there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of "private life."

The requested documents, in particular the contracts in question contain many elements on the professional activities of the former Commissioner in a private company 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.⁴ Those two conditions are cumulative.⁵

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

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.

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

² 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

³ 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.

⁴ 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.

⁵ 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.

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. 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