

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY
Director-General

Brussels, 10 AOUT 2015

Ms Vicky Cann
CEO
Rue d'Edinburg 26
1050 Brussels
By email: ask+request-2111-
c96e5c8c@asktheeu.org

Subject: Your application for access to documents – Ref /GestDem No 2015/3586

Dear Ms Cann,

I refer to your e-mail dated 6 July 2015 registered on 7 July 2015 by which you make a request for access to documents.

Your application concerns *"all documents which relate to any article 16 (staff regulations) applications made by Jan Eric Frydman, including to work for Ekenberg & Andersson"* You request in particular *"a note of all Mr Frydman's job titles at the Commission including dates held; copies of any application(s) that he has made under article 16 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 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.

The documents identified are two application forms submitted by Mr Frydman in the framework of Article 16 of the Staff Regulations and the related decisions from the Appointing Authority. I have also identified e-mail exchanges within Commission services or between Commission services and Mr Frydman pertaining to the underlying internal procedures concerning these requests for authorisation (covering a period from 07/08/2013 to 18/09/2013 and from 22/07/2014 to 29/08/2014 respectively).

The documents you requested contain personal data relating to the past and present occupational activities of Mr Frydman. 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 e-mail exchanges between the Commission services and Mr Frydman, Article 4(3) paragraph 2 of Regulation No 1049/2001 also applies. 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) N° 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.

Mr Frydman submitted two declarations of intention to engage in an occupational activity after leaving the Commission (Article 16 of the Staff Regulations).

The first one, dated 4 August 2013 and registered on 7 August 2013, relates to the authorisation to engage in a remunerated occupational activity as an "Adjunct Judge of Appeal" at Svea Hovrätt. The second one, dated 10 July 2014 and registered on 22 July 2014, relates to the authorisation to engage in a remunerated occupational activity as a partner at Ekenberg & Andersson.

Following the general rules concerning the consultation process for this type of request, the Appointing Authority gave its approval to carry out these activities as they did not lead to a conflict with the legitimate interests of the institution. However, for the second one, during the two years after leaving the service, Mr Frydman was asked to notify the Commission again when he would intend to accept an individual client whose activities are related to those which he had in the Commission in his last 3 years of service.

In both cases Mr Frydman was reminded of the specific staff obligations as laid down in Articles 16, 17 and 19 of the Staff Regulations.

Furthermore I can provide you with some information on the last posts held by Mr Frydman covering the period which was assessed as regards any potential conflict of interest :

From 1/12/2008 to 30/04/2011 : DG ENTR, deputy Head of Unit – Supervision of International Regulatory Cooperation – Asia

From 1/05/2011 to 30/09/2012 : DG ENTR, Head of Unit – International Regulatory Agreements and Toys' Safety

From 1/10/2012 to 30/09/2013 : DG ENTR, Head of Unit – Tourism and Cultural Instruments

I would like to remind you that Corporate Europe Observatory remains subject to the provisions implementing Directive 95/46/EC¹ 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.

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

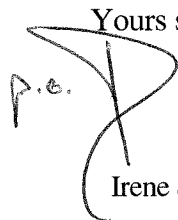
¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

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-5
BERL 5/327
B-1049 Brussels

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

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

Yours sincerely,

Irene SOUKA