



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

Director-General

Brussels, **25 NOV. 2015**

Ms Vicky Cann
CEO
Rue d'Edimbourg 26
1050 Brussels
By email: ask+request-2372-e57a67ac@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2015/5713

Dear Ms Cann,

I refer to your e-mail dated 28 October 2015 and registered on 30 October 2015 by which you make a request for access to documents under the above mentioned reference number.

Your application concerns *"all declarations of interest by Aleksandra Tomczak in her current role as Policy Coordinator – EU Coal and for any previous roles held at the Commission, alongside all related documents including emails, letters, minutes of meetings on this matter"*.

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.

The document identified in the context of your request is the form relating to the declaration of interest at recruitment by candidates submitted by Ms Tomczak upon her recruitment in the framework of Article 11 and 11a of the Staff Regulations.

That document contains personal data relating to the past and proposed job of Ms Tomczak. It is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, also in her 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.

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.

Ms Tomczak submitted a declaration of interest form as required by the standard Commission procedure before recruiting any new staff member. This declaration aims to allow the Appointing Authority to identify potential or actual conflicts of interest in relation to the specific position offered and to determine the appropriate mitigating measures to be taken, if appropriate.

The Appointing Authority gave its opinion on 16 January 2015 identifying a potential conflict of interest in relation to the post offered to Ms Tomczak at DG ENER. In fact Ms Tomczak may be in contact or deal with files involving members of the World Coal Association (WCA), her previous employer, as well as industry representatives from the coal sector in the proposed post.

To prevent Ms Tomczak from being in a position of conflict of interest proportionate measures were taken to mitigate any effects of a potential conflict of interest as follows:

For a period of 6 months after entry into service Ms Tomczak was not to be involved in any meeting with members of WCA or industry representatives from the coal sector without the prior agreement of her Head of Unit. In case of an authorisation to participate in such meetings she was always to be accompanied by another colleague from the Commission. During that same period, Ms Tomczak was not to be involved in files concerning decisions related to individual coal companies or national coal sectors.

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 (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

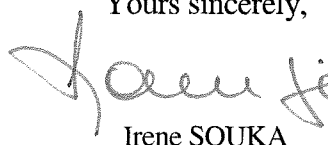
Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

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

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

Yours sincerely,



Irene SOUKA

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