

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

Director-General

Brussels, **27 JAN. 2016**

Ms Vicky Cann
CEO
Rue d'Edinburg 26
1050 Brussels
By email: ask+request-2465-18cad25e@asktheeu.org

Subject: Your application for access to documents – Ref /GestDem No 2015/6583

Dear Ms Cann,

I refer to your e-mail dated 14 December 2015 and registered on 15 December 2015 by which you make a request for access to documents under the above mentioned reference number.

Your application concerns *"all documents which relate to the application made under the Staff Regulations for authorisation for post-employment activities with Kaesler&Kollegen by Peter Faross"*. In particular, you request *"a copy of the application that Mr Faross made under the Staff Regulations including dates made and dates authorised; 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.

The documents identified are an application form submitted by Mr Faross in the framework of Article 16 of the Staff Regulations and the related decision from the Appointing Authority. I have also identified e-mail exchanges which took place between 5 March 2014 and 10 July 2014 within Commission services or between Commission services and Mr Faross, pertaining to the underlying internal procedures concerning that request for authorisation.

The documents you requested contain personal data relating to the occupational activities of Mr Faross. 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 Faross, the second subparagraph of Article 4(3) of Regulation (EC) 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 Faross submitted a declaration of intention to engage in an occupational activity after leaving the Commission (Article 16 of the Staff Regulations) dated 5 March 2014 and registered on 19 March 2014, relating to the authorisation to engage in a remunerated professional activity for an undetermined period as an adviser at the law firm "Kaesler & Kollegen" in Germany. The envisaged activity consisted in giving legal advice, via that law firm, to the Bulgarian government, on matters falling outside the area of nuclear energy.

Following the general rules concerning the consultation process for this type of request, the Appointing Authority gave its approval to carry out this activity on 10 July 2014. The delay of the decision was due to the complex nature of the file. Mr Faross had indicated in his declaration that the envisaged activity would start only "after authorisation", and was informed of the delay.

The authorisation was subject to certain conditions. During the 18 months after leaving the service, Mr Faross was not to engage in any lobbying or advocacy vis-à-vis Commission staff for his new employer on matters for which he had been responsible during the last three years of service in DG ENER. In addition, during the 18 months after leaving the service, and in the context of his new activities, Mr Faross was not to have any professional contacts with the service for which he had been responsible, namely DG ENER. Finally, Mr Faross was to ensure that his new employer was fully informed about these restrictions and that these were duly taken into account when Mr Faross would be assigned specific mandates, notably regarding the prohibition to deal with files in which he had been implied in his former functions in DG ENER.

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.

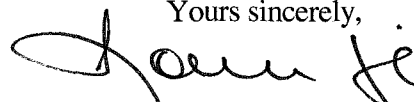
Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

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