



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Brussels,
SG.C2/FL/na

By registered letter with acknowledgment of receipt

Mr Olivier Hoedeman
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Advance copy by email: ask+request-2650-8a375e29@asktheeu.org

Subject: Your request under Regulation (EC) No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents – Ref GestDem 2016/1072

Dear Mr Hoedeman,

We refer to your e-mail dated 02/03/2016 in which you make a request for access to documents, registered on 02/03/2016 under the above mentioned reference number.

You request access to:

- all minutes and other reports of the meeting between Riccardo Maggi (member of Commissioner Timmermans' cabinet) and JT International Holding (JTI) on Monday 23 November 2015 on the Better Regulation Package.
- all correspondence (including emails) between Riccardo Maggi and JT International Holding.

Your application concerns the following documents:

- (1) E-mail exchanges between the cabinet of First Vice-President Timmermans and JTI from 23 March 2015 to 3 July 2015 (ARES(2015)2232305 and ARES(2015)3924726)
- (2) E-mail exchanges between the cabinet of First Vice-President Timmermans and JTI from 16 July 2015 to 9 November 2015 (ARES(2015)5322164)
- (3) E-mail exchanges between the cabinet of First Vice-President Timmermans and JTI on 24 September 2015 and 26 November 2015 (ARES(2016)1268189)
- (4) Letter from the Commission to JTI (annex of e-mail of 26/11/2015)
- (5) Letter from JTI to the Commission (annex of e-mail of 26/11/2015)

¹ OJ L145, 31.05.2001, page 43.

(6) Minutes of the meeting of 23 November 2015 between the cabinet of First Vice-President Timmermans and JTI (ARES(2016)5322258)

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, and taking into account the opinion of the third party, I have come to the conclusion that they may be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

Protection of commercial interests

In document (3) - in the e-mail of 26 November 2015 from JTI to the Commission - two sentences have been blanked out. In document (5), four sentences have been blanked out. In both cases, the author of the document has objected to disclosure of the document that he sent to the Commission and has motivated his position on the basis of Article 4(2), first indent, of Regulation (EC) No 1049/2001, indicating that the disclosure of the redacted parts would undermine the protection of the company's commercial interests. Putting this information in the public domain would affect its competitive position on the market.

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. After examination, the Commission has not been able to identify such an overriding public interest for the disclosure of the six redacted sentences.

Protection of privacy

Furthermore, all the documents to which you have requested access contain personal data, in particular the names and, for some of them, the ID card numbers of the persons that attended the meeting between the Commission and JTI.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its 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 45/2001 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.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable. 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 to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

In accordance with Article 7(2) of Regulation 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 5/282
B-1049 Bruxelles

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

Yours sincerely,



Elizabeth GOLBERG
Director