



EUROPEAN COMMISSION
Secretariat-General

Directorate B
The Acting Director

Brussels,
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By registered mail:

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Subject: Your application for access to documents pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents – ref. GestDem 2016/1646

Dear Ms Vermander,

I refer to your e-mail of 1st April, registered on the same day, by which you make a request pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹.

You request access to 1) *the minutes of the meeting between Secretary-General Alexander Italianer and Centre for European Policy Studies (CEPS) of 22/10/2015 on "the role of think tanks in EU policy making"* 2) *all the e-mails between SG Alexander Italianer and think tanks (such as CEPS, EPC, Bruegel, Bertelsmann Stiftung, Lisbon Council, Friends of Europe, Eurofi, EFILA) from November 2014 to date.*

As far as point 1) of your request is concerned, we regret to inform you that no documents were found that would correspond to the description given in your application. Therefore, the respective part of your application cannot be handled.

Indeed, as specified in Article 2 (3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

¹ Official Journal L145 of 31.05.2001, p.43.

Given that no such documents have been identified, the Commission is not in a position to handle your request on this point.

As far as point 2) of your request is concerned, the Commission services have considered a period starting from 1 September 2015, rather than from 1 November 2014. Before September 2015, Mr. Alexander Italianer was Director-General of the Directorate-General for Competition (DG COMP) and did not occupy the post of Secretary-General as specified in your request. Should you wish to also cover the period between 1 November 2014 and 1 September 2015, you are kindly invited to submit a new initial request.

The Commission services have identified the following documents as falling under the scope of your request:

- e-mail from the Bertelsmann Stiftung Office sent on 30 October 2015 to Secretary General Alexander Italianer (ref. Ares (2015) 4721557);
- e-mail from the Bertelsmann Stiftung Office sent on 30 October 2015 to Secretary General Alexander Italianer (ref. Ares (2015) 4793301);
- e-mail from the Bertelsmann Stiftung Office sent on 9 December 2015 to Secretary General Alexander Italianer (ref. Ares (2015) 5701788).

Having examined the documents requested under the provisions of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, I have come to the conclusion that they can be disclosed, subject only to the redaction of the names and contact details of the people not occupying any senior management position who drafted the documents. The latter must be protected pursuant to Article 4(1)(b) of Regulation 1049/2001 (protection of the privacy and integrity of the individual), as explained below.

Article 4(1)(b) provides that *"the institutions shall refuse access to a document where disclosure would undermine the protection of privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data"*.

The above-mentioned names and contact details clearly constitute personal data in the meaning of Article 2(a) of the Data Protection Regulation.

In accordance with Article 8(b) of Regulation 45/2001, personal data shall only be transferred to recipients if the necessity to disclose the personal data has been established and there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. These conditions are cumulative.

As the Court of Justice ruled, if the applicant does not provide any express and legitimate justification in order to demonstrate the necessity for the personal data to be transferred,

the Commission cannot weigh up the interests, and the request must therefore be refused².

In the present case, I note that you have not put forward any arguments to substantiate a need to obtain the above-mentioned personal data, nor any specific interest in obtaining these data. Furthermore, it cannot be assumed that the legitimate interests of the persons concerned would not be prejudiced by the disclosure.

Therefore, in accordance with Article 4(1)(b) of Regulation 1049/2001, access to the personal data contained in the documents requested has to be refused, as the need for public disclosure has not been substantiated, and it cannot be assumed that the disclosure would not prejudice the legitimate rights of the individuals concerned.

Please note also that Article 4(1)(b) of Regulation 1049/2001 does not include the possibility for the exception defined therein to be set aside by an overriding public interest.

In case you would disagree with the above assessment, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to introduce 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-B4
BERL 5/340
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu.

Please note that these emails were received by the Commission from Bertelsmann Stiftung. They are disclosed for information only. They do not reflect the position of the Commission and cannot be quoted as such.

Yours sincerely,



Paraskevi Michou

Annexes (3): documents to which partial access is granted

² Judgment of 29 June 2010, C-28/08 P, paragraphs 77-78.