



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

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By registered letter with acknowledgment of receipt

Mr Mathias Schindler
Bundestagsbüro Julia Reda, MdEP
Unter den Linden 50
11011 Berlin
Germany

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Subject: Your application for access to documents – Ref GestDem No 2016/1708

Dear Mr Schindler,

We refer to your e-mail dated 05/04/2016 in which you make a request for access to documents, registered on 05/04/2016 under the above mentioned reference number.

Your request concerned the following documents:

"Documents which contain the following information:

** information (including memos, letters, drafts, protocols, databases, emails) with employees, representatives and contractors by or associated with Baker & McKenzie and its subsidiaries.*

** information (including memos, letters, drafts, protocols, databases, emails) about any contractual relation with Baker & McKenzie and its subsidiaries.*

** information (including memos, letters, drafts, protocols, databases, emails) about third party services hired, contracted or consulted (with or without financial compensation) in relation with the drafting of legislative or nonlegislative files with employees, representatives and contractors by or associated with Baker & McKenzie and its subsidiaries."*

As regards the scope of the request, in your reply to our clarification request you indicated the following:

"Baker & McKenzie is the name of a company providing legal services. The information I am looking for is described in my initial request sufficiently. Specific documents I am

looking for include correspondence between the Commission and Baker & McKenzie representatives and correspondence from or to Baker & McKenzie that the Commission holds. The period should encompass the ongoing legislative term. If information belongs to conversations that started before that time, it should be included.

This information can also include documents (in a broader sense) stemming from legal services given to the Commission, such as legal advice, lobbying, help in legislative work, studies for legal issues and so on".

You will find enclosed to this letter the documents which have been identified in our Directorate-General as covered by the scope of your request. Please note that you will receive a separate additional reply by Unit G3 whose search of documents has not yet been finalised.

For two of the documents concerned originating from a third party (email correspondence between Baker & McKenzie and the Association of European Businesses in Russia), the originator of the documents has been consulted and has objected to disclosure.

Following an examination of these two documents (n 1 and 3 in the attached Excel list of documents) 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 regret to inform you that access to these two documents cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation. The email correspondence above mentioned contains private conversations on the subject of international relations – including the politically sensitive subject of sanctions – and relating to the commercial interests of Baker & McKenzie and the Association of European Businesses. Therefore, disclosure of these documents would undermine the protection of international relations '(Article 4(1) third indent) and of commercial interest of a natural or legal person, including intellectual property (Article 4(2) first indent.

The possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001 has also been examined. However, this has not been considered to be possible since the document in question is covered by the above-mentioned exception in its entirety.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the documents concerned, which has to outweigh the interest protected by the exception to the right of access. In the present case, the services of the Commission have reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

Moreover, some of the documents enclosed contain personal data, in particular names, email addresses and telephone numbers. 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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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 these 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 Brussels

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

Yours sincerely,



Lowri Evans

Enclosed: Excel list of documents

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.