Subject: Your application for access to documents – Ref GestDem No 2016/3344

Dear Mr Tokmetzis,

We refer to your e-mail dated 10 June 2016 in which you make a request for access to documents, registered on 14/06/2016 under the above mentioned reference number.

You request access to the "minutes and supporting documents (reports, presentations, etc.) the meetings between:
1. The EOS and Director-General Alfred Matthias Ruete on 19/12/2014
2. The ASD and Director-General Alfred Matthias Ruete on 23/01/2015
3. The EOS and Polykarpos Adamidis & Diane Schmitt on 15/10/2015
4. The ASD and Director-General Alfred Matthias Ruete on 05/11/2015.

Your application concerns the following documents:
1. Briefing contribution for the meeting with ASD on 19/12/2014 Ares(2016)3205078
2. Briefing for the meeting with ASD on 23/01/2015 Ares(2016)3065685
3. Report of the meeting between members of the Commissioner's cabinet and EOS on 15/10/2015 Ares(2016)3713523

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, 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.
The redacted parts of the documents are as follows:

1. The redacted part in the Briefing for the meeting with ASD on 19/12/2014 includes information on personal data, in particular name, position and contact details of employees at the Commission.

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.

2. The redacted part in the Briefing for the meeting with ASD on 23/01/2015 contains commercially sensitive business information of the company that submitted it, in particular refers to future proposals for projects to be made by EOS.

Pursuant to Article 4(2) first indent of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.

Disclosure of these parts would undermine the protection of commercial interests of involved companies. The information relating to commercially sensitive business activity would provide an outline of the company’s flagship projects and therefore would be liable to affect the company’s position on the market.

3. The redacted part in the Report of the meeting between the members of the Commissioner’s cabinet and EOS on 15/10/2015 also contains information on personal data, in particular name, position and contact details of employees at the Commission.

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.

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Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
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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 data³.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable⁴. 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.

4, The redacted part in the Briefing for the meeting with ASD on 5/11/206 relates to information that were it to be disclosed would seriously undermine the Commission's ongoing decision-making process, in relation to the mid-term review of the Multiannual Financial Framework.

Pursuant to Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 access to a document drawn up by an institution and relating to a matter where a decision has not been taken by the institution has to be refused if disclosure of the document would seriously undermine the institution's decision making process, unless there is an overriding public interest in disclosure.

Disclosure of this part would undermine the on-going decision-making procedure. The information linked to the on-going decision making process would risk to prejudice the Commission's margin of appreciation in this regard and would reveal Commission's plans which are not decided yet.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. It is considered that, with the information available, the public interest in making the content of the documents public does not outweigh the harm disclosure would cause to the interests protected by the invoked exceptions.

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.

³ Official Journal L 8 of 12.1.2001, p. 1
⁴ 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 1-06055.
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,

Matthias Ruete