

EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate B
Director

Brussels,
SG.B.5/MM/psi – sg.dsg1.b.5(2013)399104

Ms Rachel Tansey

by email only to:
ask+request-337-
376548b3@asktheeu.org

**Subject: Your request for access to documents registered under reference
No GestDem 2013/574**

Dear Ms Tansey,

I refer to your email of 5 March 2013, in which you confirm your interest in obtaining the document mentioned in our reply of 4 March 2013 to your request of 6 February 2013, as clarified in your email of 8 February 2013.

You have requested access to:

Correspondence between staff of the Secretariat-General and three particular branches of Clifford Chance: the Brussels, Paris and London offices from February 2012 to February 2013.

As indicated in our reply of 4 March 2013, we have found one document corresponding to your search criteria, namely an email from a trainee solicitor of Clifford Chance in London inquiring about the handling of a complaint. This email was received by the Secretariat-General and forwarded to the Directorate-General for Justice, which replied. The reply to this email from Clifford Chance will be included in the reply of the Directorate-General for Justice to your request registered under reference No GestDem 2013/572.

The email can be disclosed; however, the copy to be disclosed has been expunged of personal data, both of the trainee making the enquiry and of the complainant. Please note that, contrary to what we assumed initially, the complainant is not a client of Clifford Chance.

The personal data have been deleted pursuant to the exception set out in Article 4(1) (b) of Regulation 1049/2001, according to which *[t]he institutions shall refuse access to a document where 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 45/2001¹. The Court of Justice has confirmed that "*where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation 45/2001 become applicable in their entirety, including Articles 8 and 18 thereof*"². Pursuant to Regulation 45/2001, personal data must be processed fairly and lawfully. Any processing must be necessary and proportionate for a specific purpose.

Furthermore, pursuant to Article 8(b) of Regulation 45/2001, the Commission can only transmit personal data to a recipient subject to Directive 95/46/EC if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced³. Since nothing in your request shows the necessity of having these data transmitted to you, we consider that, in this case, the necessity of disclosing the abovementioned data is not demonstrated.

Consequently, the disclosure of the names of natural persons referred to above has to be refused pursuant to Article 4(1) (b) of Regulation 1049/2001.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

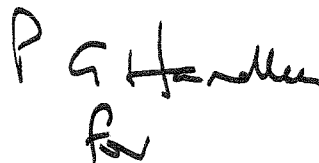
In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application 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
BERL 5/327
B-1049 Bruxelles

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

Yours sincerely,



Hubert Szlaszewski

Enclosure: 1 document

¹ 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 of the free movement of such data, OJ L 8 of 12.1.2001, p1

² Judgment of 29.6.2010 in Case C-28/08 P, *Bavarian Lager*, paragraph 63

³ *Bavarian Lager* judgment, paragraph 78