



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate B

Brussels,
SG/B.3/MIA

Ms Vicky Cann
CEO
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B-1050 Brussels

By e-mail:
ask+request-3378-cbcd03bc@asktheeu.org

Subject: Your application for access to documents in accordance with Regulation 1049/2001– Ref. GestDem 2015/5657

Dear Ms Cann,

We refer to your e-mail dated 13 October 2016 and registered on the same day under the above-mentioned reference number. I also refer to the holding reply of 3 November 2016 [Ref. Ares(2016)6242244].

In your e-mail, you request "... copies of all applications by former Commissioner Jonathan Hill which sought Commission authorisation for new professional activities with Chartwell Speakers and Literary Agency, and any other roles, under the commissioner code of conduct. I would further like to request any emails, correspondence and meeting notes which relate to this application; and all opinions from the ad hoc ethical committee."

I have identified 5 documents falling within the scope of your request:

1. E-mail of Lord Hill to Mr Italianer of 17.00.2016 [Ref. Ares(2016)5143387];
2. LS consultation- E-mail of SG of 19.09.2016 [Ref. Ares(2016)5438660] and e-mail of the LS of 21.09.2016 [Ref. Ares(2016)5526612];
3. Commission Decision C(2016)6262 of 23.09.2016;
4. PV (2016)2183 of 28.09.2016;
5. Letter of Mr Italianer to Lord Hill of 30.09.2016 [Ref. Ares(2016)5682545];

1. PUBLIC DOCUMENTS

Document n° 4 contains the extracts of the minutes of the Commission's meeting in which the decision on Lord Hill post-mandate activity was adopted. Please note that the minutes are already available to the public and therefore, a copy is not enclosed.

2. CONCLUSIONS UNDER REGULATION 1049/2001

Following the examination of your request and of the documents concerned, I am pleased to grant you partial access to documents n° 1, 3 and 5, as well as to the e-mails and draft decisions under document n° 2.

You will find copies enclosed.

The reasons for the refusal of the deleted parts of the above-mentioned documents are set out below.

The deleted parts of documents n° 1 and 5 contain the e-mail address of the former Commissioner. The deleted parts in the e-mails included in document n° 1 and 2 contain the names and the e-mail addresses of the Commission's officials in charge of the file. This is personal data. As regards document n° 3, the draft decisions annexed to the-mails under document n° 2 and the decision annexed to document n° 5 contain a reference to a contractual detail and for obvious reasons this is also personal data covered by the exception provided for in Article 4 (1) (b) of Regulation 1049/2001. Disclosing this information would undermine the privacy of the concerned former Commissioner as well as of Commission officials concerned.

In its judgment in the *Bavarian Lager* case¹, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No. 45/2001² (hereinafter the 'Data Protection Regulation') becomes fully applicable.

The concerned documents contain elements which undoubtedly constitute personal data in the meaning of Article 2(a) of Regulation (EC) No 45/2001, as they reveal information about an identified or an identifiable person. According to Article 8(b) of the Data Protection Regulation, which is fully applicable in this case, personal data shall only be transferred to recipients 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 prejudiced.³ Those two conditions are cumulative.⁴

I consider that in the present case the necessity of disclosing the aforementioned personal data to you has not been established in your request.

¹ Judgment of the Court of Justice of 29 June 2010, Case C-28/08P, *European Commission v The Bavarian Lager Co. Ltd.*

² 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, Official Journal L 8 of 12.1.2001

³ Cf. Judgment of the Court of 20 May 2003 in joined cases C-465/00, C-138/01 and C-139/01, preliminary rulings in proceedings between Rechnungshof and Österreichischer Rundfunk, paragraph 73.

⁴ Judgment of the Court (Grand Chamber) of 29 June 2010 in case C-28/08 P, *Commission v Bavarian Lager*, paragraphs 56, 63, 68, 76-79.

Consequently, access to personal data contained in the relevant parts of the above-mentioned documents has to be refused on the basis of the exception provided for in Article 4 (1) (b) of Regulation 1049/2001.

If you wish to appeal against this decision, you should write to the Commission Secretary-General at the address sg-acc-doc@ec.europa.eu. You have fifteen working days from receipt of this letter in which to appeal.



Pascal Leardini
Director SG B

Annex

Cc: SG-DOSSIERS-ACCES@ec.europa.eu