



EUROPEAN COMMISSION

LEGAL SERVICE
The Director General

Brussels, 27th September 2018

Mr Peter Teffer
EU Observer
Rue Montoyer 18B
B-1000 Brussels

By e-mail: ask+request-5677-9eb37202@asktheeu.org

Subject: Request for access to documents

Ref.: Your request of 7 August 2018 registered under reference GestDem 2018/4286

Dear Mr Teffer,

On 7 August 2018 you have presented a confirmatory application against the reply of 31 July 2018 of the Directorate-General for Communications Networks, Content and Technology (DG CNECT) to your request for access to documents reference GestDem 2018/3267.

In the context of this confirmatory application, you have asked a copy of the reply of the Legal Service to the note from DG CNECT of 28 May 2018, with reference Ares(2018)2742292 (identified as document within the documents concerned by your request).

As you were informed, this part of your confirmatory application has been registered as a new initial request for access to documents and it has been attributed to the Legal Service (registered under reference GestDem 2018/4286).

The requested document is the response of the Legal Service of 7 June 2018 to the consultation of DG CNECT of 28 May 2018 referred to above (document reference Ares(2018)2982215).

Having concretely assessed the concerned document, I am pleased to inform you that, in accordance with Regulation (EC) No 1049/2001, full access can be granted to it with the exception of the names and references of the Commission's staff not forming part of senior management as well as the signatures. This information is covered by the exception provided for in Article 4(1)(b) of Regulation No 1049/2001 ("*protection of personal data*")¹, in accordance with the European Union legislation regarding the protection of personal data.

¹ "The institutions shall refuse access to a document where disclosure would undermine the protection of: [...] (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data".

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of Regulation 45/2001³, 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. Those two conditions are cumulative.

I consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

If you wish to receive the expunged personal data, I invite you to provide us with arguments showing the need to have the personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data would be disclosed.

Please note that the exception of Article 4(1)(b) has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

Accordingly please find attached a copy of the document concerned expunged from personal data. Please note that you may reuse it free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please also note that the Commission does not assume liability stemming from the reuse.

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles

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

The Secretary General will inform you of the result of this review within 15 working days from the date of registration of your request. You will either be given access or your request will be rejected in which case you will be informed of how you can take further action.

Yours sincerely,



Luis ROMERO REQUENA

Attachment: 1

² Judgment of 29 June 2010 in *Commission v The Bavarian Lager Co. Ltd*, C-28/08 P, EU:C:2010:378.

³ OJ L 8, 12.1.2001, page 1.