



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY
Director-General

Brussels,

Address email: ask+request-6095-
b6c9a8cd@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2018/5902

Dear Mr Zinser,

I refer to your e-mail dated 06/11/2018 in which you make a request for access to documents, registered on 09/11/2018 under the above-mentioned reference number.

You request access to documents indicating “*times of sick leave*” of the Commission’s President Jean-Claude JUNCKER “*during his ongoing EU commission presidency*”.

I note that your above request is submitted in the framework of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.¹ I also note that, by its very nature, information related to “*times of sick leave*” of an individual is personal data, and therefore documents linked thereto contain personal data. Indeed, any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.²

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 European Union legislation regarding the protection of personal data. When access is requested to documents containing personal data, 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 becomes fully applicable.⁴

¹ OJ L 145, 31.5.2001, p. 43.

² Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Novak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, ECLI:EU:T:2018:560.

³ Official Journal L 8 of 12.1.2001, p. 1.

⁴ Judgment of the Court of Justice of the European Union of 29 June 2010 in Case C-28/08 P, *Commission v The Bavarian Lager Co. Ltd*, ECLI:EU:C:2010:378.

In this context, the simple mention that such documents indicating times of sick leave of an individual exist, represents personal data as defined by Regulation 45/2001. Under Article 10 of that Regulation, processing of “*data concerning health*” is in principle prohibited.

It derives from the above that the rules on the protection of privacy do not allow the Commission to even confirm the existence of documents concerning the sick leave of an individual. The mere disclosure of the information on sick leave would indeed infringe the privacy of the person concerned. To that extent the consideration of a partial disclosure, in this context, must be ruled out.

Consequently, in view of the above, I regret to inform you that your request for access to documents cannot be granted under Regulation (EC) № 1049/2001.

In accordance with Article 7(2) of Regulation № 1049/2001, you are entitled to make a confirmatory application requesting 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, Document Management & Access to Documents (SG.C.1)
BERL 5/282
B-1049 Bruxelles

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

Yours faithfully,



Irene SOUKA