



Directorate D - Policy
Unit D.3 Inter-institutional and external relations
Head of Unit

Volodymyr BOGATYR

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Brussels

Subject: Your application for access to documents

Dear Mr Bogatyr,

We refer to your email dated 14 March 2019 registered under reference Ares(2019)2204731 in which you make a request for access to documents that contain the following information:

- 1) The basis for selection of the candidates named in your email as members of the Public Council of International Experts (PCIE);
- 2) Who finances the activity of the named persons as members of the PCIE.

We handled your request as an application for access to documents under Regulation (EC) No 1049/2001¹.

OLAF has identified three documents relevant to your request, which are registered under Ares(2018)3946775 on 25 July 2018, Ares(2018)4816790 on 19 September 2018 and Ares(2018)6011138 on 23 November 2018 respectively.

Please note that the document registered under Ares(2018)6011138 contains personal data.

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 Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.²

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L145, 31.05.2001, page 43.

² OJ L 295, 21.11.2018, p. 39.

In its judgment in Case C-28/08 P (*Bavarian Lager*)³, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No 45/2001 (now replaced by Regulation (EU) 2018/1725) becomes fully applicable.

According to this Regulation, personal data shall only be transferred to recipients, other than Union institutions and bodies, which are not subject to national law adopted pursuant to this, if an adequate level of protection is ensured in the country of the recipient or within the recipient international organisation and the data are transferred solely to allow tasks covered by the competence of the controller to be carried out.

We consider that, with the information available, the fulfilment of these conditions has not been established. Therefore, we are disclosing the documents requested expunged from personal data.

In case you disagree with the assessment that the blackened 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.

Pursuant to Article 4 of Commission Decision 2001/937/EC, ECSC, Euratom, such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary General of the Commission.

Any confirmatory application to OLAF should be sent to the following address:

Mr Martin SELMAYR
Secretary General
European Commission
B-1049 BRUXELLES
BELGIUM

Your attention is drawn to the privacy statement below.

Yours sincerely,



Charlotte ARWIDI

³ Judgment of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd*, C-28/08 P, EU:C:2010:378, paragraph 59.

Privacy statement

Pursuant to Articles 15 and 16 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by Union Institutions, bodies, offices and agencies and of the free movement of such data, please be informed that your personal data are stored in OLAF's electronic and paper files concerning this matter for the purposes of ensuring conformity with the requirements of Regulation 1049/2001 and Commission Decision 2001/937/EC.

The categories of your personal data being processed are identification and contact data and any other personal data provided by or to you in relation to your request. Officials within OLAF and other Commission services responsible for dealing with requests for access to documents, and third parties, within the meaning of Articles 4(4) and 3(b) of Regulation 1049/2001, and Article 5 of Commission Decision 2001/937/EC, have access to your personal data. Personal data that appear on the requested document may only be disclosed to the applicant following an assessment under Article 9(b) of Regulation (EU) 2018/1725. There is no automated decision process by OLAF concerning any data subject.

The retention period for public access to documents which do not concern OLAF investigations is a maximum of 10 years.

You have the right to request access to your personal data, rectification or erasure of the data, or restriction of their processing. Any request to exercise one of those rights should be directed to the Controller (OLAF-FMB-DATA-PROTECTION@ec.europa.eu). You may contact the Data Protection Officer of OLAF (OLAF-FMB-DPO@ec.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

You have the right to have recourse to the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by OLAF.

The complete privacy statements for this and all other OLAF personal data processing operations are available at http://ec.europa.eu/anti_fraud.