



## EUROPEAN COMMISSION

Directorate-General for International Cooperation and Development

Director-General

 Ref. Ares(2019)3226033 - 16/05/2019

Brussels,  
Devco.b.1(2019)3256327

Mr. Alvaro MERINO  
Calle Ricardo Ortiz 61, 1B.  
28017 Madrid

*By registered letter with  
acknowledgment of receipt  
Advance copy by email: ask+request-  
6639-08012881@asktheeu.org*

**Subject: Your application for access to documents –  
Ref GestDem No 2019/1607**

Dear Mr. Merino,

I refer to your e-mail dated 18 March 2019 in which you make a request for access to documents, registered on the same day under the abovementioned reference number.

In your request, you ask for “a list of all lobby meetings held by the commissioner in charge of International Cooperation and Development, Neven Mimica, or any other member of its Cabinet with any organisations representing churches and/or religious communities since 2014 onwards, including all emails, minutes, reports or any other briefing papers related to all those meetings”.

Please note that the part of your request referring to the list of meetings does not concern access to one or more existing documents but to information, which would have to be compiled and processed for this specific purpose. Therefore, for this part, your request does not qualify as an application for access to documents under Regulation (EC) No 1049/2001, but as a request for access to information, which was handled under the Code of Good Administrative Behaviour.

To this end, a list of meetings has been communicated to you on 5 April 2019 (reference Ares(2019)2466345).

For the rest, your request is handled as a request for access to documents under Regulation (EC) No 1049/2001.

On 8 April 2019, DG DEVCO informed you about the extension of the time-limit for 15 working days, indicating as new time-limit erroneously 25 April 2019. This calculation did

not take into account several Commission holidays<sup>1</sup>. The correct time limit is therefore 3 May 2019.

You will find in Annex (Annex 1 and 2) to this letter the documents corresponding to your request. Having examined the documents requested under the provisions of Regulation (EC) N°1049/2001 regarding public access to documents, we have come to the conclusion that they may be partially disclosed, as exception under Article 4(1)(b) of Regulation (EC) No 1049/2001 apply as regarding the protection of personal data.

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. 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC<sup>2</sup> ('Regulation 2018/1725').

Some of the documents to which you request access contain personal data, in particular names, (e-mail) addresses, and phone numbers. Article 3(1) of Regulation 2018/1725 provides that personal data "means any information relating to an identified or identifiable natural person [...]". The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.<sup>3</sup> In its judgment in Case C-28/08 P (Bavarian Lager)<sup>4</sup>, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.<sup>5</sup> Pursuant to Article 9(1)(b) of Regulation 2018/1725, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if "[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests".

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have

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<sup>1</sup> 8 April Maundy Thursday, 19 April Good Friday, 22 April Easter Monday, 1 May Wednesday Labour Day; see Commission Decision of 22 August 2017 on public holidays for 2019 for the institutions of the European Union C/2017/5727, OJ C 279, 23.8.2017, p. 3.

<sup>2</sup> Official Journal L 205 of 21.11.2018, p. 39.

<sup>3</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in Case [C-434/16](#), *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](#).

<sup>4</sup> Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, [EU:C:2010:378](#), [paragraph 59](#)

<sup>5</sup> Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by [Regulation 2018/1725](#).

the data transmitted for a specific purpose in the public interest. It is only in this case that the Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the Commission does not have to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced. Notwithstanding the above, note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts. Consequently, I conclude that pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

In case you disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit a confirmatory application requesting the Commission to review this position.

Finally, DG DEVCO has also blackened parts of Annex 1, page 2, since the concerned paragraph is out of scope of your request. This part deals with additional undertakings by DEVCO in the field of religion and development and is therefore not covered by your request.

A confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the Commission at the following address:

European Commission  
Secretariat-General  
Unit C.1. 'Transparency, Document Management and Access to Documents'  
BERL 7/076  
B-1049 Bruxelles, or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

*[e-signed]*  
Stefano MANSERVISI

Enclosures: List of documents, Documents (1) – (2)