



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
HUMAN RESOURCES AND SECURITY

Director-General

Brussels, **15 MAI 2019**

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**Subject: Your application for access to documents – Ref /GestDem No 2019/1873**

Dear Ms da Silva,

I refer to your e-mail, dated 25 March 2019 and registered on the same day under the above mentioned reference number, in which you make a request for access to documents.

Your application concerns "*documents which relate to any article 16, article 12B and article 40 (staff regulations) applications made by Alexander Italianer, former Secretary General of the European Commission*". In particular, you "*request a note of all Mr. Italianer's job titles at the Commission including dates held; copies of any application(s) that he has made under article 12b, 16 and 40 to undertake a new professional activity; and all documents (correspondence, emails, meeting notes etc) related to the authorisation of the new role or roles.*"

I have examined your request under the provisions of 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.

I understand that your request refers to documents which relate to new roles and new professional activities of Mr Italianer after leaving the service.

In this context, the documents identified in the framework of your request are six declaration forms submitted by Mr Italianer in the framework of Article 16 of the Staff Regulations and the related decisions from the Appointing Authority, that are below described. In addition, e-mail exchanges within Commission services and between Commission services and Mr Italianer concerning these requests for authorisation and the related Appointing Authority decisions were also identified.

The documents you requested contain personal data relating to the past and present occupational activities of Mr Italianer. It is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, also in his professional capacity,

are correctly protected. This is why I consider that the exception foreseen in Article 4(1)(b) of Regulation No 1049/2001 applies.

As for the correspondence between the Commission services and Mr Italianer, in addition to the protection of personal data, also the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 applies. That exception is related to the protection of the Commission's decision-making process even after the decision of the Appointing Authority has been taken. As no overriding public interest in disclosure could have been identified in the present case, that exception to the right of access cannot be waived.

While I have also considered the possibility of granting partial access on the basis of Article 4(6) of Regulation (EC) N° 1049/2001, I have concluded that this would equally undermine the protection of personal data.

Against this background, in order to address your query to the extent possible, I can nevertheless provide you with the following general information on the process to which your request relates.

Mr Italianer's declarations to engage in an occupational activity after leaving the Commission (Article 16 of the Staff Regulations) are described as follows:

1. a request, received on 14 March 2018, to perform a non-remunerated honorary function, for an indefinite period, as a Member of the Advisory Board of the Nexus Institute, in the Netherlands;
2. a request, received on 14 March 2018, to perform a non-remunerated occupational activity, for an indefinite period, as a Member of the Curatorium of the Europa Instituut, University of Leiden, in the Netherlands;
3. a request, received on 24 May 2018, to perform a remunerated occupational activity as invited speaker at a lecture for senior managers from the Dutch Public Administration;
4. a request, received on 19 June 2018, to perform a remunerated occupational activity as a Keynote speaker on Geopolitics at an event for Institutional Investors for Aegon Asset Management;
5. a request, received on 9 January 2019, to perform a remunerated occupational activity, for an indefinite period, as managing partner/director of a company which he intended to set up under Belgian law. The main activities of this company would be to provide, on a part-time basis, consultancy services (object of a separate authorisation request mentioned below) as well as other remunerated potential activities;
6. a request, received on 1 February 2019, to perform a remunerated occupational activity, until 31 December 2020, as a service provider to Arnold & Porter Kaye Scholer LLP, in Brussels. The activity consists of providing consultancy services to this law firm through his company on an exclusive basis.

Following the general rules concerning the consultation process for this type of requests, on 17 April 2018 (for the first two requests), 13 June 2018 and 19 July 2018, the Appointing Authority gave its approval to carry out the first four activities reminding Mr Italianer of the

ongoing obligations that apply to former staff members. On 21 February 2019 and 15 March 2019, the Appointing Authority gave its approval to carry out the two last activities, under certain limited conditions aimed at preventing any potential conflict of interest. In particular, these conditions can be described as follows:

- Mr Italianer was requested in accordance with the third paragraph of Article 16 of the Staff Regulations, not to engage, during the 12 months after leaving the service, in any lobbying or advocacy vis-à-vis staff of the Commission on behalf of his company, or its clients, on matters for which he was responsible during the last three years in the service;
- Mr Italianer was furthermore requested, having regard to the interest of the service and under the second paragraph of Article 16 of the Staff Regulations, not to engage, during an additional period of 6 months which followed the above mentioned period of 12 months, in professional contacts aiming at lobbying or advocacy, vis-à-vis staff of the Commission on behalf of his company, or its clients, on matters for which he was responsible during the last three years in the service;
- Mr Italianer was also reminded to make it clear to his interlocutors, when teaching, giving speeches or providing opinions, that he acts in his personal capacity, not representing in any way the position or interests of the Commission;
- Mr Italianer was furthermore reminded of the statutory obligation to refrain from any unauthorised disclosure of information received in the line of duty during his work at the Commission, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations), and, in this context, to refrain from exploiting insights of confidential nature in policy, strategy or internal processes that he may have acquired in the line of service and that have not yet been public or are not commonly available in the public domain;
- Mr Italianer was in addition required to follow the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits from any new employer or its clients. He was informed that the aforementioned duty includes refraining from advising or working on behalf of any of his clients on particular files or matters (for example: contracts, policy files, grants, cases, claims, investigations, ongoing legislative procedures), in which he participated personally and substantially and that would entail relying upon information received in the line of duty that have not been made public. It also includes refraining from dealing, directly or on behalf of his future clients, with competition cases in which he was involved, including related or subsequent cases and/or court proceedings;
- With specific regard to the latest declared consultancy activity, Mr Italianer was requested to refrain from having professional contacts for his clients and for the clients of Arnold & Porter Kaye Scholer LLP with his former colleagues in the Secretariat-General and DG COMP;
- Mr Italianer was finally reminded of the obligation, within 2 years after leaving the service, to inform the Commission if he intends to engage also in any new occupational activity. He was reminded of the fact that any activity must comply also

with other statutory obligations, notably Article 19 of the Staff Regulations, concerning the unauthorised disclosure of information received in the line of duty in any legal proceedings, and with Articles 19, 20 and 21 of the Commission Decision C(2018) 4048 on outside activities and assignments and on occupational activities after leaving the Service, which took effect on 1 September 2018.

Furthermore, I can provide you with some information on the last posts held by Mr Italianer, with regard to the relevant period assessed as regards any potential conflict of interest in the framework of Article 16 of the Staff Regulations:

- from 1 March 2018 to 31 March 2018, Mr Italianer was Hors - classe adviser (Secretariat-General);
- from 1 September 2015 to 28 February 2018, he was Secretary-General of the European Commission;
- from 1 April 2015 to 1 September 2015, he was Director-General for competition in DG COMP.

I would like to remind you that Corporate Europe Observatory remains subject to the provisions implementing Directive 95/46/EC on the protection of individuals with regard to the processing of personal data according to which personal data must, inter alia, be processed fairly and lawfully and subject to the unambiguous consent of the data subject concerned.

Finally, please be informed that a copy of this letter will be sent to the person concerned.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission 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 7/076  
B-1049 Brussels

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,



Irene SOUKA