Subject: Your application for access to documents – Ref. GestDem No 2020/0312

Dear Sir,

We refer to your e-mail dated 10/01/2020, followed by your clarification sent on 03/02/2020, in which, pursuant to Regulation (EC) 1049/2001, you make a request for access to documents, registered under the above mentioned reference number.

You request to access minutes and other reports of meetings as well as all correspondence (including e-mails) between the European Commission’s DG GROW Units G1 and G3 and business lobbyists (interest representatives) in which public procurement was discussed, with specific reference to the period between 01/10/2017 and today.

In reply to your application, I am pleased to hereby attach the following documents:


2) Minutes of the meeting with the German industry association AMD on 16 April 2019 (document’s reference name: Meeting AMD on 16 April 2019 - Ref. Ares(2020)795477)


In relation to the attached documents, I would draw your attention to the information provided below concerning their reuse and the protection of personal data they contain.

**The reuse of the requested documents**

You may reuse the requested documents free of charge for non-commercial and commercial purposes, provided that the source is acknowledged and that you do not distort the original meaning of the documents. Please note that the Commission does not assume liability stemming from the reuse.

**The protection of personal data contained in the requested documents**

The documents to which you request access contain personal data, in particular the names of European Commission staff members.

Pursuant to Article 4(1)(b) of Regulation (EC) 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. In its judgment in Case C-28/08 P, the Court of Justice ruled that, when a request is made for access to documents containing personal data, the legislation in the field of data protection becomes fully applicable².

The legislation in the field of data protection currently applicable is Regulation (EU) 2018/1725³. 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 data⁴. The names, signatures, functions, telephone numbers and initials of staff members of an institution are to be considered as personal data⁵.

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² Judgment of the Court of Justice of the European Union of 29 June 2010 in Case C-28/08 P, European Commission v The Bavarian Lager Co. Ltd, paragraph 59 (EU:C:2010:378). While 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.


Pursuant to Article 9(1)(b) of Regulation 2018/1725, personal data shall only be transmitted to recipients, established in the Union and other than Union institutions and bodies, if “the 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 is lawful under Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

In your request, you do not put forward any arguments to establish the necessity to have the personal data transmitted for a specific purpose in the public interest. Therefore, the European 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, please note that in fact there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data in the requested documents, as there is a real and non-hypothetical risk that such disclosure would subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) 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 would disagree with the assessment that the redacted data is 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) 1049/2001, to submit a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed, within 15 working days from 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 e-mail to: sg-acc-doc@ec.europa.eu.

Yours faithfully,

(e-signed)

Katharina Knapton-Vierlich
Attachments:
20191022 Mission_Report_BDI_Guidance_presentation
Meeting AMD on 16 April 2019 - Ref. Ares(2020)795477