

EUROPEAN EXTERNAL ACTION SERVICE



AFFGEN.2
Head of Division

Brussels, 27 October 2020
eeas.sg.affgen.2 (2020) 6049557

Ms Margarida da Silva

Subject: Your request for access to documents of 16 January 2020
Our ref: 2020/004

Dear Ms da Silva,

With reference to the last paragraph of my letter of 26 March 2020, I regret to inform you that EEAS did not receive agreement from the consulted party to disclose the Document number 8 “Draft contract with EUTOP Berlin GmbH” and Document number 9 “Revised contract with EUTOP Berlin GmbH. – signed”.

Our examination of these documents, including in consultation with the third party concerned, concluded that they contain personal data related to Mr. Sabathil. Their disclosure would undermine the privacy and the integrity of the individual, in accordance the Regulation n° 2018/1725.¹ Therefore such documents cannot be disclosed according to Article 4 (1)(b) of Regulation n° 1049/2001 (protection of the privacy and the integrity of the individual). *Article 4 (1) (b) of Regulation 1049/2001 provides that access to documents is refused where disclosure would undermine the protection of privacy and integrity of the individual, in particular in accordance with legislation regarding the protection of personal data.*

Article 3 (1) of the Regulation n° 2018/1725 ("the Data Protection Regulation") provides that 'personal data' shall mean any information relating to an identified or identifiable natural person [...]. As the Court of Justice confirmed in case C-465/00 (Rechnungshof), there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of “private life.”

Furthermore, the release of these documents to the general public would harm the commercial interests of EUTOP GmbH.

¹ 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 2018/1725 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98

Therefore, I regret to inform you that we are not in a position to disclose these documents at this point in time, neither as a whole nor partially, since their release could seriously undermine the privacy and the integrity of the individual, in accordance with the EU legislation regarding the protection of personal data and the commercial interests of a natural or legal person [Article 4(1)(b), Article 4(2), first indent and Article 4(4) of the Regulation n° 1049/2001].

Should you wish this position to be reviewed, you may confirm your initial request within 15 working days.

Yours sincerely,

[e-signed]

Gabriele Visentin