



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
HUMAN RESOURCES AND SECURITY  
The Director-General

Brussels, 24 June 2020  
HR/GI

Ms Margarita DA SILVA  
CEO  
Rue d'Edimbourg 26  
1050 Brussels  
By email: [ask+request-7937-a91a973c@asktheeu.org](mailto:ask+request-7937-a91a973c@asktheeu.org)

**Subject: Your application for access to documents – Ref /GestDem No 2020/2620**

Dear Ms DA SILVA,

I refer to your e-mail, dated 6 May 2020 and registered on 8 May 2020 under reference number 2020/2620, in which you make a request for access to documents.

Your application concerns "[...] *documents related to any article 16, article 12B and article 40 (staff regulations) applications made by Ms. Aura Salla to take up employment in Facebook's EU affairs office*". In particular, you request "*a note of all Ms. Salla's job titles at the Commission including dates held; copies of any application(s) that she has made under article 12b, 16 and 40 to undertake the new professional activity; the date of issuing the authorisation; any possible assessments of the compatibility of Ms. Salla's new role with the 12 months lobbying ban as set by the EU Staff Regulation; and all documents (correspondence, emails, meeting notes etc) related to the authorisation of the new role*".

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 relating to the new role and new professional activity of Ms SALLA after leaving the service.

In this context, the documents identified in the framework of your request are: a document extracted from the relevant staff database listing the job titles of Ms SALLA, a declaration form submitted by Ms SALLA in the framework of Article 16 of the Staff Regulations, and the related decision from the Appointing Authority. In addition, e-mail exchanges within Commission services and between Commission services and Ms SALLA concerning these requests for authorisation and the related Appointing Authority decisions were also identified.

In accordance with Article 4(1)(b) of Regulation (EC) 1049/2001, it is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, including in her professional capacity, are correctly protected. The documents you requested contain personal data relating to the past and present occupational activities of Ms SALLA, the disclosure of which would entail a transmission of personal data falling under the provisions of Regulation (EU) 2018/1725<sup>1</sup>.

In the case *EC v Bavarian Lager*,<sup>2</sup> the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation 2018/1725 becomes fully applicable.<sup>3</sup> Pursuant to Article 9(1)(b) of that Regulation, personal data shall only be transferred to recipients if they established the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

Although you did not establish the necessity of having the data transferred, I consider that there is no reason to think that the legitimate interests of the individual concerned would not be prejudiced by disclosure of her personal data.

Consequently, I consider that the exception provided for in Article 4(1)(b) of Regulation (EC) No 1049/2001 applies. As for the correspondence between the Commission services and Ms SALLA, in addition to the protection of personal data, 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) No 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, and after having consulted Ms SALLA, I can nevertheless provide you with the following general information on the process to which your request relates.

Ms SALLA's declaration to engage in a remunerated occupational activity after leaving the Commission (pursuant to Article 16 of the Staff Regulations) was received on 31 March 2020. She requested to perform a remunerated occupational activity for an undefined period, envisaged starting date of activity was as of 1 May 2020, as Head of the Office and Director of EU Affairs. The main activities of her role would include team management, representing the company and communicating the company's position.

Following the general rules concerning the consultation process for this type of request, on 13 May 2020, the Appointing Authority gave its approval to carry out the activity

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<sup>1</sup> Regulation (EU) No 2018/1725 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 (OJ L 295, 21.11.2018, p. 39).

<sup>2</sup> Judgment of 29 June 2010, Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, ECLI:EU:C:2010:378, paragraph 59.

<sup>3</sup> This judgment specifically cited Regulation (EC) No 45/2001, which was repealed by Regulation (EU) 2018/1725. In accordance with Article 99 of that latter Regulation, references to Regulation (EC) No 45/2001 should be construed as references to Regulation (EU) 2018/1725.

subject to strict compliance with certain conditions aimed at preventing any potential conflict of interest with the legitimate interests of the Commission. In particular, these conditions can be described as follows:

- Having regard to the interest of the service and under the second paragraph of Article 16 of the Staff Regulations, Ms SALLA was requested not to have any professional contact with her former service (Inspire, Debate, Engage and Accelerate Action, I.D.E.A.) on behalf of Facebook or its companies for a period of 6 months. This included participating in events organised by I.D.E.A
- Ms SALLA was also requested not to engage, in the 12 months period after leaving the service, in professional contacts aiming at lobbying or advocacy, towards staff of the Commission on behalf of Facebook or its companies on matters related to the work she carried out during the last 3 years of service (i.e. February 2017 to February 2020). This prohibition only applies to matters in which she worked *personally* and *substantially*, and in which she may exceptionally have exercised *responsibility* for specific files, cases, decisions or legislative proposals working for I.D.E.A. This prohibition to lobby does not affect general exchanges of and on publicly available information, her work on interdisciplinary research, collaborative projects and organising thought provoking seminars and events;
- Ms SALLA was also reminded to always make her new employment status clear to her interlocutors, in the framework of the requested activity, and that she does not represent in any way the views or position of the Commission;
- Ms SALLA was furthermore reminded of the statutory obligation to refrain from any unauthorised disclosure of information received in the line of duty during her work at the Commission, unless that information has already been made public or is accessible to the public (pursuant to Article 17 of the Staff Regulations), and, in this context, to refrain from exploiting insights of a confidential nature in policy, strategy or internal processes that she may have acquired in the line of service and that have not yet been public or are not commonly available in the public domain;
- Ms SALLA was finally reminded of the obligation to inform the Commission if she intends to engage also in any new occupational activity within 2 years after leaving the service. She was reminded of the fact that any activity must comply also with other statutory obligations, notably Articles 16 and 19 of the Staff Regulations concerning respectively the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits and the unauthorised disclosure of information received in the line of duty in any legal proceedings, and with Articles 19, 20 and 21 of Commission Decision C(2018) 4048 on outside activities and assignments and on occupational activities after leaving the Service.

Furthermore, I can provide you with some information on the last posts held by Ms SALLA, with regard to the relevant period assessed as regards any potential conflict of interest in the framework of Article 16 of the Staff Regulations, she worked as an Administrator (Policy Analyst) between 9 December 2019 and 29 February 2020, at Inspire, Debate, Engage and Accelerate Action (I.D.E.A.), and between 1 February 2017 and 8 December 2019 at the European Political Strategy Centre (EPSC).

I would like to remind you that Corporate Observatory Europe remains subject to the provisions of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, (General Data Protection Regulation)<sup>4</sup> 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,

(e-signed)

Gertrud INGESTAD

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<sup>4</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.