



EUROPEAN COMMISSION

Brussels, 15.2.2019  
C(2019) 1456 final

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██████ Brussels  
Belgium

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE  
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001<sup>1</sup>**

**Subject: Your confirmatory application for access to documents under  
Regulation (EC) No 1049/2001 - GESTDEM 2018/6361**

Dear ██████████,

I refer to your e-mail of 25 January 2019, registered on 28 January 2019, in which you submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup> (hereafter ‘Regulation (EC) No 1049/2001’).

**1. SCOPE OF YOUR REQUEST**

In your initial application of 30 November 2018, you requested access to ‘[t]he precise job description given to ██████████ upon assuming ████████ duties as the European Commission’s ██████████’.

In your application, you underlined that ‘[w]hile recognising that the job description of EU officials are not normally published for reasons of data protection, [you] believe there is a demonstrable public interest in making available the aforementioned documents’, and provided arguments in this respect.

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<sup>1</sup> Official Journal L 345 of 29 December 2001, page 94.

<sup>2</sup> Official Journal L 145 of 31 May 2001, page 43.

Your initial application was attributed to the Directorate-General for Human Resources and Security for handling and reply.

The European Commission has identified the following document as falling under the scope of your initial application:

- Extract from internal Commission application SYSPER<sup>3</sup> containing the job description of the staff member in question.

In the reply of 23 January 2019, the Directorate-General for Human Resources and Security referred to the reply provided by the European Commission to your previous application submitted on 21 June 2018<sup>4</sup>, in which you asked for access to the same document.

The Directorate-General for Human Resources and Security outlined also the conclusions of the assessment carried out by the European Commission in the handling of the above-mentioned initial application. Indeed, the European Commission refused access to the document concerned, based on the exception in Article 4(1)(b) of Regulation (EC) No 1049/2001, protecting privacy and the integrity of the individual. These conclusions, according to the Directorate-General for Human Resources and Security, remain valid also with regard to your current application, as it relates to the same document.

In your confirmatory application, you request a review of this position. In particular, you underline that ‘there is a clear public interest in disclosing details of the job description [in question]’.

## **2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001**

When assessing a confirmatory application for access to documents submitted pursuant to Regulation (EC) No 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

In the context of the review, I note that you do not put forward any change in the legal or factual situation that has taken place since the refusal of the European Commission to grant access to the requested document stipulated in the confirmatory decision replying to your application that was registered under the reference number GESTDEM 2018/3412<sup>5</sup>. I have examined whether there are any new circumstances and have come to the conclusion that the legal and factual circumstances justifying that refusal have not changed and that the earlier refusal of grant access remains justified in the light of the current legal or factual situation. Consequently, I refer you to the Decision of the

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<sup>3</sup> SYSPER is the human resource management system used by the European Commission to store and manage information concerning staff members.

<sup>4</sup> Your initial application of 21 June 2018 was registered under number GESTDEM 2018/3412. You made a confirmatory application requesting a review of the initial reply of the Directorate-General for Human Resources and Security concerning this application. On 2 October 2018, the European Commission replied to your application and confirmed the initial decision of the Directorate-General for Human Resources and Security.

<sup>5</sup> Decision of the European Commission C(2018)6537.

European Commission C(2018)6537 and to the conclusion contained therein that access to the document you request cannot be granted, based on the exception protecting privacy and the integrity of the individual (Article 4(1)(b) of Regulation (EC) No 1049/2001).

With regard to your argument concerning a public interest that, in your view, warrants public disclosure of the document concerned, please note that the exception laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001 does not need to be balanced against overriding public interest in disclosure.

### **3. MEANS OF REDRESS**

Finally, I would like to draw your attention to the fact that the means of redress that are available against this decision that is, judicial proceedings and complaints to the Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union, are limited only to the assessment that the legal and factual circumstances have not changed since the reply of the European Commission to your earlier application.

Yours sincerely,



*For the Commission*  
*Martin SELMAYR*  
*Secretary-General*