



EUROPEAN COMMISSION

OFFICE FOR THE ADMINISTRATION AND PAYMENT OF INDIVIDUAL ENTITLEMENTS

The Director

03 JUIN 2014

Brussels,
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(File followed by Sophia Cabouctzis ☎ +32-2-2959572)

Access Info Europe
Ms Helen Darbishire
Calle Cava de San Miguel 8, 4c,
28005 Madrid
SPAIN

(Sent by registered mail)

Subject: Your application for access to documents – Ref. N° GestDem 2014/2324

Dear Madam,

I refer to your e-mail dated 6 May 2014 in which you make a request for access to documents, falling under the Regulation (EC) N° 1049/2001 regarding public access to documents, registered on 8 May 2014 under the above mentioned reference number.

Your application concerns:

"Documents which provide amounts paid in salaries, travel costs and travel expenses and other expenses to each of the EU Commissioners and to Commission President Jose Manuel Barroso for the years 2012 and 2013."

We have identified the following documents as falling under the scope of your request:

- The salary slips of the Commissioners and of the Commission President for the years 2012 and 2013;
- The mission costs and representation expenses of the Commissioners and of the Commission President for the years 2012 and 2013.

Having examined your request under the provisions of Regulation N° 1049/2001, I regret to inform you that your application can only partially be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The documents you request concern the personal situation of the Commissioners and of the Commission President, and therefore the personal data of the latter in the sense of Article 2(a) of Regulation 45/2001 [reference in footnote]. 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 Community legislation regarding the protection of personal data*.

Article 2 (a) of Data Protection Regulation 45/2001¹ ("the Data Protection Regulation") provides that '*personal data*' shall mean any information relating to an identified or identifiable person [...]. As the Court of Justice confirmed in case C-465/00 (*Rechnungshof*)², *there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of "private life"*.

The salary slips clearly constitute personal data in the meaning of Article 2(a) of the Data Protection Regulation. In its judgment in the *Bavarian Lager* case³, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable. This means that the necessity to disclose the personal data must be established and that there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. These conditions are cumulative.

In the present case, I note that it cannot be assumed that the disclosure of the personal data would not prejudice the legitimate rights of the Commissioners concerned.

Furthermore, you have not put forward any arguments to substantiate a need to obtain these personal data. The fact that Article 4 (1) (b) is an absolute exception which does not require the institution to balance the exception defined therein against any possible public interest in disclosure, only reinforces this conclusion.

Therefore, in accordance with Article 4 (1) (b) of Regulation 1049/2001, access to the documents requested has to be refused, as they consist of personal data for which the need for public disclosure has not been substantiated, and it cannot be assumed that the disclosure of the personal data would not prejudice the legitimate rights of the individuals concerned.

However, I would like to draw your attention on the fact that the Commission, in its efforts for more transparency, published all the necessary information about the Commissioners, on the EUROPA website⁴, which also includes an overview of their financial entitlements⁵ but without any personal data.

¹ 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, Official Journal L 8 of 12.1.2001, p. 1.

² Judgment of the Court of 20 May 2003 in joined cases C-465/00, C-138/01 and C-139/01, preliminary rulings in proceedings between *Rechnungshof and Österreichischer Rundfunk*, paragraph 73.

³ Judgment of 29 June 2010, C-28/08 P

⁴ http://ec.europa.eu/commission_2010-2014/

⁵ http://ec.europa.eu/commission_2010-2014/pdf/entitlements_en.pdf

Regarding the part of your request referring to the "travel and other expenses paid out to the Commissioners and Commission President Jose Manuel Barroso for the years 2012 and 2013", the Commission interprets it as meaning "mission costs and representation expenses".

The mission costs include travel costs, accommodation costs, daily subsistence allowances and any other expenses which are eligible for reimbursement according to the Guide to Missions for officials and other servants of the Commission, the Financial Regulation and the internal rules on the implementation of the budget of the EU, completed with the rules of the Code of Conduct for Commissioners.

The information you request on the missions costs also relates to documents referring to the personal situation of the Commissioners and of the Commission President, and therefore again to personal data.

Under the existing regulatory framework, representation costs include all expenditure incurred in meeting people from outside the institutions either at their place of employment or during a mission (see Code of conduct for Commissioners and the Commission Decision C(2011)2904⁶).

As a partial access to the documents you requested, please find attached a table giving, for the required years, the overall costs of missions and representation expenses of all the Commissioners, including President Barroso.

The remaining parts of the documents cannot be disclosed for the same reasons as those set out above.

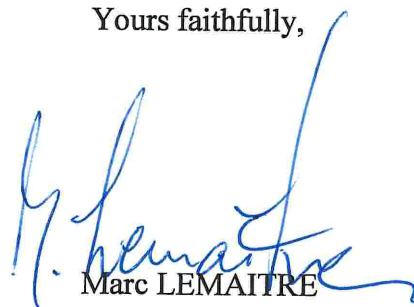
As a consequence of this partial access to your request, and in accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

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 unit SG-B-4
BERL 5/327
B-1049 Bruxelles

Or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,



Marc LEMAITRE

Cc: HR ACCESS TO DOCUMENTS
Encl.: 1

⁶ http://ec.europa.eu/commission_2010-2014/pdf/code_conduct_en.pdf