



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

SG B

Brussels, 11 NOV. 2014

Ms Nicola Freeman  
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**Subject: your e-mail dated 20 October 2014 in relation to your application for document access in accordance with Regulation 1049/2001 (GestDem 2014/4272)**

Dear Ms Freeman

In the reply of 7 October 2014 (ARES(2014)3314634) Directorate B, Institutional and Administrative Polices of the Secretariat-General, has denied access to the documents requested in ALTER EU's initial application of 24 September 2014 concerning all documents relating to the authorisation for new professional activities made by Commissioners, since your previous request of 13 August 2014 (GESTDEM 2014/3710). The refusal was made on the basis of two exceptions provided for in Article 4 of Regulation 1049/2001: the protection of personal data and the protection of internal decision-making process before the relevant decisions are adopted by the Commission.

In the e-mail mentioned in reference and registered on 27 October 2014, ALTER EU raised several questions concerning transparency issues (part A) and, if the Commission were unable to reply to those questions, made several arguments to be accepted as a confirmatory application (part B).

Since you only submitted a confirmatory application on condition that the Commission were unable to respond to your questions, I have decided to register it on a provisional basis in order to protect your rights. I would however be grateful if you could inform us as soon as possible whether you withdraw or maintain your confirmatory application in view of the explanations provided hereunder.

In the meantime, a further request has been submitted by CEO and registered on 27 October 2014, under reference GESTDEM 2015/5017. This request has an identical

scope and covers documents established or received since the date of the registration of ALTER EU's last initial request, namely 25 September 2014.

## **I. Transparency of Decisions concerning post mandate activities of former Commissioners**

Your questions ask for assurances that *all the documents* relevant to the authorisation of post mandate activities of former Commissioners relevant to your request, even subsequent to the request, would be released to you as soon as the Commission's final decision on a particular application has been communicated to the Commissioner concerned.

You also refer to a letter of the Secretary General of the Commission to Mr Paul De Clerck, dated 9 June 2011 in which it was announced that transparency would be ensured as regards *the decisions* relating to departing Commissioners new professional activities, whether approving, rejecting or imposing possible restrictions and/or conditions.

### **I.1 Currently existing measures ensuring transparency on the procedures applicable and on the decisions taken**

As from 2014, the decisions concerning post office activities of former Commissioners have been made public through the PV (minutes) of the Commission's meetings (<http://ec.europa.eu/transparency/regdoc/index.cfm>). It was the case in February, (see PV (2014) 2076 final of 25 February 2014) in relation to an activity of a former member of the Barroso I Commission. It is also the case for the decisions adopted last 29 October 2014 on the activities envisaged by two members of the Barroso II Commission. (see PV (2014) 2103). A most recent decision adopted on 5 November 2014 will be in PV (2014) 2104.

In addition, and most recently, a new page has been set up on the Europa website, on 14 October 2014 in order to inform the public on the rules and procedures applicable to the authorisation of former Commissioners post-office activities and on the mandate and composition of the Ad hoc Ethical Committee ([http://ec.europa.eu/commission\\_2010-2014/ad-hoc-committee/index\\_en.htm](http://ec.europa.eu/commission_2010-2014/ad-hoc-committee/index_en.htm)).

Taking into account the great and legitimate interest of the public as regards the activities of former Commissioners, the Commission will continue to make public the nature of those activities authorised in conformity with the Code of conduct for Commissioners, the content of the decisions adopted by the Commission, including possible conditions and/or restrictions. This will be ensured in the PV of the meeting concerned, in a transparent and open spirit.

### **I.2 Your questions concerning the publication of decisions, of the original documents including applications, and recommendations of the Ad Hoc Ethical committee.**

Those documents will be disclosed to the public on a case by case basis as the Commission is obliged to protect the personal data/privacy of former Commissioners and organisations or companies concerned, as foreseen in Regulation 1049/2001.

The documents will therefore only be disclosed after analysis and due consideration to the factual and legal circumstances existing at the time of the decision, and consultation of the concerned parties as appropriate.

## **II. Friendly solution proposal under Article 6(3) of Regulation 1049**

The three initial requests for access to documents GESTDEM 2014/3710, 2014/4272 and 2014/5017 introduced respectively by ALTER EU and by CEO, have identical content and concern the documents, applications, decisions established since the previous application.

These requests show your interest in being informed, on a regular basis, of any decisions taken concerning Commissioners post-mandate activities.

As the reinforced transparency already in place provides for broad and accurate information on all the decisions adopted by the Commission on former Commissioners envisaged activities, the Commission is confident that this will meet the needs of your organisations, at least on a general basis.

The handling of a continuing flow of requests for access to documents is not easy and is labour intensive also due to the fact that new requests, opinions, decisions may arise at any time during the 18 months following the end of the Barroso II Commission. Those documents need to be assessed individually and the possible disclosure depends on the progress of the decision making process and may also depend on the consultation of third parties involved.

In order to avoid a cumbersome process in which the Commission will have to respond to multiple requests covering the same scope, I would suggest that, on the basis of Article 6(3) of Regulation 1049/2001, we would find a fair solution on the following terms:

1. ALTER-EU and CEO withdraw their current applications;
2. The Commission proactively makes public and sends to ALTER-EU and CEO the relevant excerpts of the minutes of Commission's meetings concerning the decisions on former Commissioners activities;
3. On the basis of the information received under point 2) Alter-EU and CEO remain free to submit new specific and targeted access to documents requests in case of specific interest in an individual decision.

## **III. Your confirmatory application**

As mentioned above, I have decided to register on a provisional basis under the provisions of Regulation 1049/2001, as a confirmatory application, your request contained in part B of your e-mail of 20 October 2014.

Since you made your application conditional upon the answer to be provided by the Commission to part A of your e-mail, I would be grateful if you could inform us, as soon as possible of your position in relation to the above-mentioned friendly solution proposal and whether you withdraw or maintain your confirmatory application.

Should you maintain your confirmatory application, the Commission will respond to it within a reasonable time limit from the confirmation that you maintain it. The Commission will do its best to do so within the time limit prescribed by Regulation 1049/2001. Nevertheless, the Commission might need to extend the time limit pursuant to Article 8(2) of that Regulation, in view of the conditional character of your application.



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