



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate B
The Acting Director

Brussels,
SG.B4/VL/bb – sg.dsg2.b.4(2015)5907998

By registered mail:

Ms Julia KESERU
1550 7th Street NW, #635
USA – Washington, DC 20001

Copy by e-mail: ask+request-2259-9d32ff80@asktheeu.org

Subject: Your application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2015/4871

Dear Ms Keseru,

I refer to your email, dated 9 September 2015 and registered on 15 September 2015, by which you made a request pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹.

You requested access to *documents which contain the following information:*

- *Records related to "alerts" submitted via the Transparency Register [...] about organizations based in the United States of America that are part of the Register. Specifically, any index of information about these alerts that may exist as well as the details of each alert.*

and

- *Records related to "Complaints" submitted via the Transparency Register [...] about organizations based in the United States of America that are part of the Register. Specifically, any index of information about these complaints that may exist as well as the details of each complaint.*

I further refer to our clarification request dated 6 October 2015 and to your reply dated 2 November 2015, in which you informed us that you would like to be provided with all the identified documents that are not already publicly available.

Having examined the documents requested under the provisions of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, I have come to the conclusion that they may be partially disclosed.

¹ Official Journal L145 of 31.05.2001, p.43.

Some of the documents contain personal data, such as the names and addresses of individuals. These personal data have been redacted as their disclosure is prevented by an exception to the right of access laid down in Article 4(1)(b) of Regulation 1049/2001 (protection of the privacy and the integrity of the individual). Indeed, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, as interpreted by the Court of Justice in the *Bavarian Lager* case², disclosure of documents needs to also fully comply with the rules on personal data protection³.

In accordance with Article 8(b) of Regulation 45/2001, personal data shall only be transferred to recipients if the necessity to disclose the personal data has been established and there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. These conditions are cumulative.

As the Court of Justice also ruled, if the applicant does not provide any express and legitimate justification in order to demonstrate the necessity for the personal data to be transferred, the Commission cannot weigh up the interests, and the request must therefore be refused⁴.

In accordance with Article 4(6) of Regulation 1049/2001 I have also examined the possibility of granting wider partial access to the documents requested. I take the view, however, that no meaningful wider partial access is possible without undermining the interests described above.

Please note also that Article 4(1)(b) of Regulation 1049/2001 does not include the possibility for the exception defined therein to be set aside by an overriding public interest.

In case you would disagree with the above assessment, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to introduce 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 sincerely,



Paraskevi Michou

Enclosures: list of disclosed documents (12)

² Judgment of the Court of Justice of 29 June 2010, Case C-28/08 P, *Commission/Bavarian Lager*, European Court Reports 2010, p. 6055.

³ Regulation (EC) No 45/2001 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 (OJ L 8 of 12.1.2001, p. 1).

⁴ Judgment of 29 June 2010, C-28/08 P, paragraphs 77-78.