



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

Directorate J - Common Support Centre
J.1 - Common Legal Support Service

Brussels,

*By registered letter with acknowledgment
of receipt to:*

Rachel TANSEY
Corporate Europe Observatory
26 rue d'Edimbourg
1050 Brussels
Belgium

Advance copy by email: ask+request-2716-073008d8@asktheu.org

**Subject: Your request for information and application for access to documents
– GestDem Ref No 2016/1447**

Dear Madam,

We refer to your email of 21 March 2016 wherein you submit a request for information and an application for public access to documents. They were registered on 23 March 2016 under the above mentioned reference number.

1. SCOPE OF YOUR REQUEST AND APPLICATION

1.1 Request for information

Your request for information concerns *a list of all meetings attended by DG RTD officials with, or organised by, the European Risk Forum (ERF), since January 2014*. It falls within the scope of the *Code of Good Administrative Behaviour*.

DG RTD officials met with the European Risk Forum on 3 occasions:

- 10/03/2015 – Meeting between RTD.A5, B1 and ERF,
- 21/04/2015 – ERF Event with participation of Mr Strohmeier, Deputy-Director General of DG RTD,
- 28/05/2015 – Meeting between RTD.A5, B1 and ERF.

1.2 Application for access to documents

Your application for access to documents concerns *all correspondence (including emails), as well as notes, minutes or any other reports of meetings, between DG RTD officials and representatives of the European Risk Forum (ERF) or concerning meetings organised by ERF, since January 2014*. It falls within the scope of *Regulation 1049/2001*¹.

Having examined the documents requested under the provisions of *Regulation 1049/2001*, we are pleased to inform you that we provide wide partial access to their content. Only a small amount of personal data contained therein cannot be disclosed in line with Article 4(1)(b) of this *Regulation*.

2. EXAMINATION UNDER REGULATION 1049/2001

We have identified 10 documents corresponding to your request, which we list chronologically. These documents are 1 email from ERF (No 7) and 1 debriefing email (No 8) sent and 8 chains of correspondence ending on:

1. 5 March 2015 (title: Rendez-vous le 10 Mars),
2. 9 March 2015 (title: Innovation Principle documents),
3. 11 March 2015 (title: ERF meeting and Innovation Principle),
4. 23 March 2015 (title: Investment, Innovation and the Regulation of Risk),
5. 13 April 2015 (title European Risk Forum next Tuesday)
6. 7 May 2015 (title: Innovation Workshop – 22 May),
7. 19 May 2015 (title: European Risk Forum: Follow-up),
8. 29 May 2015 at 09:36 (title: Debrief meeting with ERF),
9. 29 May 2015 at 15:05 (title: Follow-up meeting with DIGITALEUROPE),
10. 31 March 2016 (title: ERF meeting on REFIT and Innovation).

Please note that chains of correspondence No 3 and 9 also contain debriefing emails.

9 requested documents contain emails sent by the third parties. In line with Article 4(4) of *Regulation 1049/2001* the institution has to "*consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed*".

As it was not clear if the emails of the third parties could be disclosed, we contacted them. Third parties replied that the content of their emails can be fully disclosed.

¹ Regulation (EC) No1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43), hereinafter 'Regulation 1049/2001'.

2.1 Protection of privacy and integrity of the individual

Pursuant to the Article 4(1)(b) of *Regulation 1049/2001*, access to a document has to be refused if its "*disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with the EU legislation regarding the protection of personal data*". The applicable legislation in this field is *Regulation 45/2001*².

When access is requested to documents containing personal data, *Regulation 45/2001* becomes fully applicable³.

All 10 requested documents contain personal data, in particular the personal names, functions, addresses, e-mail addresses and phone numbers of the Commission staff as well as of the third parties' staff.

This information undoubtedly constitutes personal data in the meaning of Article 2(a) of *Regulation 45/2001*. The EU Court of Justice case-law⁴ confirms that "*there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'*".

The third parties confirmed that the personal data of their staff, contained in their emails, may be fully disclosed.

As regards the Commission staff, the personal data of the staff in senior management positions may be disclosed, as this information is already in the public domain.

The personal data of non-senior Commission staff, on the other hand, are not in the public domain.

According to Article 8(b) of *Regulation 1049/2001*, personal data shall only be transferred to recipients if they establish 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.

We consider that, with the information available, the necessity of disclosing the personal data of non-senior Commission staff to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the individuals concerned.

For this purpose, in the requested documents we redacted the personal data of non-senior Commission staff, as described above. If you wish to receive these personal data, we invite you to provide us with arguments showing the necessity for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the individuals concerned.

² 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 (OJ L 8 of 12.1.2001, p. 1).

³ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, *Commission v. The Bavarian Lager Co. Ltd*, ECR 2010 I-06055.

⁴ 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.

2.2 Legal notice

You may reuse the disclosed content of the Commission emails provided that the source is acknowledged and that you neither distort the original meaning or message of the emails nor undermine the interests protected by the above invoked exception. Please note that the Commission does not assume liability stemming from the reuse of the disclosed content.

Please note that the emails originating from the third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them. These documents do not reflect the position of the Commission and cannot be quoted as such.

3. MEANS OF REDRESS

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 5/282
B-1049 Bruxelles

or by email to: xxxxxxxxxx@xx.xxxxxx.xx

Yours faithfully,

Liliane DE WOLF

Head of Unit