



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

Director-General

Brussels, **28 NOV. 2016**

Ms Margarida da Silva
CEO
Rue d'Edimbourg 26
1050 Brussels
By email: ask+request-3507-
b2c891d0@asktheeu.org

Subject: Your application for access to documents – Ref/GestDem No 2016/5923

Dear Ms da Silva,

I refer to your e-mail dated 20 October 2016 and registered on 21 October 2016, by which you made a request for access to documents under the above mentioned reference number.

Your application concerns *"documents which relate to applications made under the Staff Regulations (article 16 or article 40) for authorisation for post-employment activities by Mr Madelin, specifically for his work for FIPRA."* In particular, you requested *"a note of Mr Madelin's job titles at the Commission including dates held; copies of any application(s) that he has made under the Staff Regulations to undertake a new professional activity; and all documents (correspondence, emails, meeting notes etc) related to the authorisation of the new role or roles."*

I have examined your request under the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

The documents identified are the following:

- three application forms submitted by Mr Madelin on 21 March 2016 in the framework of Article 16 of the Staff Regulations and the related decisions from the Appointing Authority;
- a supplementary document related to one of those decisions, after issuance;
- a fourth application form submitted on 29 July 2016 in the framework of Article 16 of the Staff Regulations and the related decision from the Appointing Authority;

- e-mail exchanges which took place between 21 March 2016 and 29 September 2016 within Commission services or between Commission services and Mr Madelin pertaining to the underlying internal procedures concerning these four requests for authorisation.

The documents you requested contain personal data relating to the past and present occupational activities of Mr Madelin. It is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, also in his professional capacity, are correctly protected. This is why I consider that the exception foreseen in Article 4(1)(b) of Regulation No 1049/2001 applies.

As for the e-mail exchanges between the Commission services and Mr Madelin, the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 applies. In addition, in the absence of an overriding public interest, the exception to the right of access cannot be waived.

While I have also considered the possibility of granting partial access on the basis of Article 4(6) of Regulation (EC) N° 1049/2001, I have concluded that this would equally undermine the protection of personal data.

Against this background, I can nevertheless provide you with the following general information on the process to which your request relates.

First, Mr Madelin's three declarations of intention to engage in an occupational activity after leaving the Commission (Article 16 of the Staff Regulations), dated 21 March 2016, related to the following activities:

- the first request related to a non-remunerated occupational activity as an honorary fellow at the Royal College of Physicians;
- the second request related to a non-remunerated occupational activity as a visiting fellow at Oxford University Department of Politics and International Relations;
- the third request related to a remunerated occupational activity as the Director of his future own company.

Following the general rules concerning the consultation process for this type of requests, on 14 June 2016, the Appointing Authority gave its approval to carry out these three activities subject to certain conditions, as follows:

a) concerning the first and second activities:

- for a period of one year after leaving the service, Mr Madelin is to refrain from being involved in any issue or discussion relating to call for proposals falling under the scope of DG CNECT Research and Innovations Horizon 2020 Work Programmes 2016 and 2017 and from participating in any project funded by the EU Research and Innovation Horizon 2020 programme;
- when participating in public debates in the framework of these activities, Mr Madelin has been requested to make clear he is speaking in his

personal capacity, not representing the position or interests of the European Commission.

b) concerning the third activity:

- during the first two years after leaving the service, Mr Madelin is not to give advice to clients on specific files which were under the responsibility of his former service during the last three years of service;
- during the first two years after leaving the service, Mr Madelin has been requested to refrain from having professional contacts with the services of DG CNECT, and the European Political Strategy Centre;
- for a period of 18 months after leaving the service, Mr Madelin has been requested to refrain from being involved in any issue or discussion relating to call for proposals falling under the scope of DG CNECT Research and Innovation Horizon 2020 Work programmes 2016 and 2017, and from participating in any project funded by the EU Research and Innovation Horizon 2020 programme.

For all three activities mentioned above, and as regards the first year after leaving the service, Mr Madelin has also been reminded of the obligation under Article 16 paragraph 3 of the Staff Regulations.

Mr Madelin was also reminded of the staff obligations as laid down in Title II and notably in Articles 16, 17 and 19 of the Staff Regulations.

Second, as regards the fourth declaration of intention submitted on 29 July 2016, Mr Madelin requested authorisation to perform a non-remunerated occupational activity as a member of the "World Economic Forum".

Following the general rules concerning the consultation process for this type of requests, the Appointing Authority gave its approval on 29 September 2016 to carry out this activity subject to the condition that Mr Madelin makes it clear to his interlocutors that he is acting in his personal capacity and not representing in any way the position or interests of the Commission.

Mr Madelin was again reminded of the obligation under Article 16 paragraph 3 of the Staff Regulations, as well as the obligations laid down in Title II, namely in Articles 16, 17 and 19 of the Staff Regulations.

I note that in your request for access you referred, in particular, to the applications for "*authorisation for post-employment activities by Mr Madelin, specifically for his work for FIPRA.*" In this regard, I inform you that in the third request submitted by Mr Madelin, which concerned his intention to perform a remunerated occupational activity as the Director of his own company, he explained that the activity of that company would entail having direct contract work with operating companies and in sub-contract work via-larger consultancies, focusing in a number of areas such as strategy. As indicated above, the Appointing Authority gave its approval to carry out this activity on 14 June 2016, subject to the conditions mentioned therein, but not requesting to submit each of these contracts to prior authorisation.

In the light of the above, I consider that the work performed by Mr Madelin for FIPRA falls under the scope of the Appointing Authority's approval of 14 June 2016.

Furthermore, I can provide you with some information on the last posts held by Mr Madelin covering the period which was assessed as regards any potential conflict of interest:

- From 01/09/2015 to 30/09/2016: EPSC, Senior Adviser – Innovation.
- From 01/04/2010 to 31/08/2015: DG CNECT, Director-General – ICT and Internet in Society, Science and Industry.

I would like to remind you that Corporate Europe Observatory remains subject to the provisions implementing Directive 95/46/EC¹ on the protection of individuals with regard to the processing of personal data according to which personal data must, *inter alia*, be processed fairly and lawfully and subject to the unambiguous consent of the data subject concerned.

In accordance with Article 7(2) of Regulation (EC) No 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 Brussels

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

Finally, please be informed that a copy of this letter will be sent to the person concerned.

Yours sincerely,



Irene SOUKA

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data