



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate B
The Director

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Mr Abdul Hai
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Subject: Your application for access to documents in accordance with Regulation 1049/2001– Ref. GestDem 2016/6735

Dear Mr Hai,

I refer to your e-mail dated 29 November 2016, registered on 30 November 2016 under the above-mentioned reference number.

In your application, you request access to... *"documents which contain the following information: Can you publish any documents which you have in relation to José Manuel Barroso and Goldman Sachs?"*.

1. SCOPE OF YOUR REQUEST

I have identified the following documents as falling within the scope of your request:

1. Letter of the European Ombudsman to President Juncker of 5 September 2016 [Ref. Ares(2016)5042347 - 06/09/2016];
2. Letter of President Juncker to the European Ombudsman of 9 September 2016 [Ref. Ares(2016)5148265];
3. Letter of the Secretary-General to former President Barroso of 9 September 2016 [Ref. Ares(2016)5162815 - 12/09/2016];
4. Letter of President Juncker to the President of the European Parliament of 9 September 2016 [Ref. Ares(2016)5148265];

5. Letter of former President Barroso to President Juncker of 13 September 2016 [Ref. Ares(2016)5242422 - 13/09/2016];
6. Note of the Secretary-General of the Commission to the Ad Hoc Ethical Committee of 15 September 2016 and its annexes [Ref. Ares(2016)5360202 - 15/09/2016];
7. Opinion of the Ad Hoc Ethical Committee of 26 October 2016 [Ref. Ares(2016)6201300 - 31/10/2016];
8. E-mail of the Secretary-General to the members of the Ad hoc Ethical Committee of 28 October 2016 [Ref. Ares(2016)6310119];
9. Replies of the members of the Ad Hoc Ethical Committee to the consultation of the Secretary General [Ref. Ares(2016)6309002, 6309432 and 6309002];
10. Letter of President Juncker to former President Barroso of 31 October 2016 [Ref. Ares(2016)6264584 - 04/11/2016];

Please note that the documents mentioned under points (1)¹, (2)², (5)³ and (7)⁴, are already in the public domain.

2. CONCLUSIONS UNDER REGULATION 1049/2001

Further to the examination of your request I have decided:

- to disclose in its entirety the letter of President Juncker to the President of the European Parliament of 9 September 2016 mentioned under point (4) and the Note of the Secretary-General of the Commission to the Ad Hoc Ethical Committee of 15 September 2016 mentioned under point (6). A copy of the above-mentioned documents is enclosed. For your information please note that the annexes to the cover note under point (6) correspond to the documents mentioned under points (1), (2), (3) and (5).
- to disclose partially the documents under points (3), (8), (9) and (10). Copies are enclosed.

The deleted parts of the documents under points (3) (8), (9) and (10) contain the e-mails addresses of the former President of the Commission and of the members of the Ad Hoc Ethical Committee. The documents under points (8) and (9) also contain the names, and e-mails addresses of the Commission's officials in charge of the file. For obvious reasons this is personal data covered by the exception provided for in Article 4 (1) (b) of

¹ <http://www.ombudsman.europa.eu/resources/otherdocument.faces/en/70847/html.bookmark>

² <http://www.ombudsman.europa.eu/resources/otherdocument.faces/en/71039/html.bookmark>

³ http://g8fip1kplyr33r3krz5b97d1.wpengine.netdna-cdn.com/wp-content/uploads/2016/09/Letter-to-Juncker_13Sept20161.pdf

⁴ http://ec.europa.eu/transparency/ethics-for-commissioners/pdf/opinion-comite-adhoc-2016-10-26_en.pdf

Regulation 1049/2001. Disclosing this information would reveal personal data and may undermine the privacy of the concerned individuals.

In its judgment in the Bavarian Lager case, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EC) No. 45/2001 (hereinafter the 'Data Protection Regulation') becomes fully applicable.

The concerned documents contain elements which undoubtedly constitute personal data in the meaning of Article 2(a) of Regulation (EC) No 45/2001, as they reveal information about identified or identifiable persons. According to Article 8(b) of the Data Protection Regulation, which is fully applicable in this case, personal data shall only be transferred to recipients if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subjects' legitimate interests might be prejudiced. Those two conditions are cumulative.

I consider that in the present case the necessity of disclosing the aforementioned personal data to you has not been established in your request.

Consequently, access to personal data contained in the relevant parts of the above-mentioned documents has to be refused on the basis of the exception provided for in Article 4 (1) (b) of Regulation 1049/2001.

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: sg-acc-doc@ec.europa.eu



Pascal Leardini

Cc: SG-DOSSIERS-ACCES@ec.europa.eu