



EUROPEAN COMMISSION  
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Director-General

Brussels, 20.06.2013  
ENTR/R1/HHO/abh - entr.r.1(2013)2323444

Mr Pascoe Sabido  
Via mail to:  
ask+request-490-  
c012cb87@asktheeu.org

**Subject: Access to documents - SABIDO - GESTDEM 2013-2398**

Dear Mr Sabido,

I refer to your email dated 30 April 2013 in which you make a request for access to documents under the above mentioned reference number. You requested access to documents with respect to the following:

" Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Any applicant who has applied to be a member of the Commission's expert groups but been refused, as listed in the February State of Play produced on 28/02/2013 by the Commission regarding the Informal Dialogue on Expert Groups and Initiatives Taken by Commission Services.

Please also include all documents which give the justification for said unsuccessful applicants not being granted membership to the applied-for expert group."

Having studied your request, we identified the following documents as falling under the scope of your request:

- Application documents of rejected candidates;
- Evaluation reports of applications per expert group containing rejected applications;
- The letters sent to non-retained candidates.

After a detailed examination, I am pleased to send you the following documents:

- Evaluation reports of rejected applications per expert group;
- The letters sent to non-retained candidates.

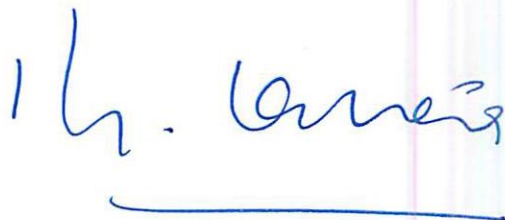
The personal data contained in these documents have been removed.

However, we are not able to grant you access to the above-mentioned application documents of rejected candidates due to the following:

In accordance with Article 4.1.b of the 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 application documents of candidates not retained are not being released on the grounds of protecting the privacy and the integrity of the individuals concerned. The names and functions of the proposed representatives constitute personal data in the meaning of Article 2(a) of the Data Protection Regulation<sup>1</sup>. In its judgement in the *Bavarian Lager* case, the Court of Justice has ruled that, when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable. This means that the necessity of disclosing the personal data must be established and additionally that there is no reason to believe that the legitimate rights of the persons concerned might be prejudiced. In this particular case, the necessity of disclosing the personal data has not been established.

Given this we assessed the possibility of providing you partial access to these documents. The conclusion was that it would not be possible to provide a partial access to the documents without endangering the privacy and integrity of the non-retained candidates.

We are therefore sending you the evaluation reports of rejected applications per expert group and the letters sent to the non-retained candidates in the hope that this addresses your request satisfactorily.<sup>2</sup>



Daniel Calleja

Enclosures:            10 evaluation reports  
                             59 rejection letters

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<sup>1</sup> 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, Official Journal L8 of 12.1.2001.

<sup>2</sup> If you want this position to be reviewed you should write to the Commission's Secretary-General at the address below, confirming your initial request. You have fifteen working days in which to do so from receipt of this letter, after which your initial request will be deemed to have been withdrawn. All correspondence should be sent to the following address:

The Secretary-General  
European Commission  
B-1049 BRUSSELS  
Belgium