



EUROPEAN COMMISSION

LEGAL SERVICE
The Director General

Brussels,

Mr Peter Teffer
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BY E-MAIL AND REGISTERED MAIL WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Request for access to documents

Ref.: Your email of 08 January 2018 registered under references GestDem 2018/148 (DG JUST) and 2018/987 (Legal Service).

Dear Mr Teffer,

I refer to your email mentioned above by which you ask, under 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 documents¹, documents regarding the issue of 'dual quality food'. More precisely, your email refers to all documents exchanged between the European Commission and the Member States since 1 January 2017, including also minutes of meetings and any documents drafted by the Commission's services, which relate to the issue of dual food quality.

As you were informed on 14/02/2018, your email has been registered as a request for access to documents and, subsequently, has been split between the Directorate-General for Justice and Consumers (DG JUST) and the Legal Service. In reply to your request, DG JUST has sent you a reply on 19/02/2017 [reference Ares(2018)954824]. The present reply refers to the documents in possession of the Legal Service regarding the fourth point of your request, i.e. “[a]ll other European Commission documents since 1 January 2017, including but not limited to 'lines to take', intra-Commission e-mails and their attachments, regarding the issue of 'dual food quality'”.

¹ OJ L145, 31.05.2001, page 43.

After examination of the files of the Legal Service the following document and its attachment have been identified as falling within the scope of your request:

- Note of the Legal Service of 15 September 2017 to the Director-General of DG Justice and Consumers: *Interservice consultation concerning the European Commission's Interpretative Notice on the application of EU food and consumer law to "dual quality" of food* and the attached *track-changes* version of the draft proposal (reference Ares(2017)4502654).

1. ASSESSMENT

After a concrete assessment of the requested documents, I am pleased to inform you that access can be granted, with the exception of names and personal details of the Commission's officials not having the function of senior management staff and of the handwritten signature. This information is covered by the exception provided for in Article 4 (1)(b) of Regulation (EC) 1049/2001 ("*protection of personal data*")², in accordance with the European Union legislation regarding the protection of personal data.

Indeed, when access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³. According to Article 8(b) of Regulation (EC) No 45/2001⁴, 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. Those two conditions are cumulative.

I consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

If you wish to receive the expunged personal data, I invite you to provide us with arguments showing the need to have the personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data would be disclosed.

Please note that the exception of Article 4(1)(b) has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

2. REUSE OF THE DOCUMENTS

You may reuse the disclosed documents free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

² "The institutions shall refuse access to a document where disclosure would undermine the protection of: [...] (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data".

³ Judgment of 29 June 2010 in *Commission v The Bavarian Lager Co. Ltd*, C-28/08 P, EU:C:2010:378.

⁴ OJ L 8, 12.1.2001, page 1.

3. MEANS OF REDRESS

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 e-mail to: sg-acc-doc@ec.europa.eu

The Secretary-General will inform you of the result of such review within 15 working days from the date of registration of your request. You will either be given access to the expunged information or your request will be rejected, in which case you will be informed of what further action is open to you.

Yours sincerely,



Luis ROMERO REQUENA

Attachments: 2