Subject: Your request for access to documents under Regulation (EC) No 1049/2001 – reference GestDem No 2018/0416

Dear Mr Dumont,

We refer to your message of 16 January 2018, registered on 18 January 2018, in which you submit a request for access to documents under Article 6(1) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents1 ('Regulation 1049/2001').

You request access to [all documents which contain the following information: According to Reuters, Mr Juncker has met, in Brussels, on the 19/12/2017 the newly elected and sworn in Austrian Chancellor, Mr. Kurz. https://www.reuters.com/article/us-austria-politics-eu/austrian-leader-defends-eu-credentials-in-brussels-idUSKBN1EC2RW]

You specify that you would like to receive:

1) The Agenda of the meeting between Mr Juncker and Mr Kurz

2) Any correspondence between Mr Juncker and Mr Kurz in regard to the newly sworn in Austrian Chancellor, Mr. Kurz (congratulations letter, reply from Austria etc)].

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In the light of the above, the Commission has identified the following document as falling under the scope of your request:

1. Letter of Mr. Jean-Claude Juncker, President of the European Commission, sent to Mr. Sebastian Kurz, Chancellor of Austria, on 16 October 2017 (Ref. Ares (2017) 5090824).

Having examined the document requested under the provisions of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, I have decided to grant access to the document requested, with the exception of the handwritten signature.

The latter must be protected pursuant to Article 4(1)(b) of Regulation 1049/2001 (protection of the privacy and integrity of the individual), as explained below.

Article 4(1)(b) provides that the institutions shall refuse access to a document where disclosure would undermine the protection of privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

The handwritten signature contained in document 1 clearly constitutes personal data in the meaning of Article 2(a) of the Data Protection Regulation 45/2001.

In accordance with Article 8(b) of Regulation 45/2001, personal data shall only be transferred to recipients if the necessity to disclose the personal data has been established and there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. These conditions are cumulative.

The Court also ruled that, if the applicant does not provide any express and legitimate justification in order to demonstrate the necessity for the personal data to be transferred, the Commission cannot weigh up the interests, and the request must therefore be refused.

In the present case, I note that you have not put forward any arguments to substantiate a need to obtain the above-mentioned personal data, nor any specific interest in obtaining these data.

As the handwritten signature constitutes biometric data, I am furthermore of the view that the disclosure would prejudice the legitimate interests of the persons concerned, as it would expose them to the risk of forgery.

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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.

3 Judgment of 29 June 2010, C-28/08 P, paragraphs 77-78.
Therefore, in accordance with Article 4(1)(b) of Regulation 1049/2001, access to the personal data contained in the documents requested has to be refused, as the need for public disclosure has not been substantiated, and it cannot be assumed that the disclosure would not prejudice the legitimate rights of the individuals concerned.

Please note also that Article 4(1)(b) of Regulation 1049/2001 does not include the possibility for the exception defined therein to be set aside by an overriding public interest.

In case you would disagree with the above assessment, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to introduce 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-B4  
BERL 5/340  
B-1049 Bruxelles  
or by email to: sg-acc-doc@ec.europa.eu.

Please find copies of the partially released documents annexed.

You may reuse the document requested 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 document. Please note that the Commission does not assume liability stemming from the reuse.

You may also be interested to receive information on the livestream press conference which the President of the European Commission and the Chancellor of Austria gave on 19 December 2017:
https://ec.europa.eu/avservices/video/player.cfm?sitelang=en&ref=1148893

Yours sincerely,

[Signature]

Pascal Leardini

Enclosures: (1)