



EUROPEAN COMMISSION

DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

Director-General

Ref. Ares(2019)383360 - 23/01/2019

Brussels,

To the attention of Mr Arun DOHLE
Against Child Trafficking
Easy Start Office
Kraijenhoffstraat 137A
NL 1018RG Amsterdam

Address e-mail: ask+request-6201-b6ba2f6a@asktheeu.org

**By registered letter with
acknowledgement of receipt**

Subject: Your application for access to documents – Ref GestDem No 2018/6981

Dear Mr Dohle,

I refer to your e-mail dated 15 December 2018 in which you make a request for access to documents, registered on 29 December 2018 under the above-mentioned reference number. You submitted this request in the framework of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.¹

You request access to the following documents:

“[...] all communication related to the award of the 20-year medal to Mrs. Roelie Post, from 2007 – 2018 [...]”.

By its very nature, information relating to the award of the 20-year service medal to a given staff member is personal data. Article 3(1) of Regulation 2018/1725 indeed provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.² The case-law has further clarified that there is no reason of principle to justify excluding activities of a professional nature from the notion of private

¹ OJ L 145, 31.5.2001, p. 43.

² Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](https://eur-lex.europa.eu/eli/eurj/2017/994).

life³, especially if the information relates to working conditions or enables the identification of an individual⁴.

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data.

In its judgment in Case C-28/08 P (*Bavarian Lager*)⁵, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁶. The applicable legislation in this field is Regulation (EC) No 2018/1725⁷.

In this context, the simple recognition that documents indicating “*all communication related to the award of the 20-year medal to Ms Roelie Post, from 2007-2018*” exist, represents personal data as defined by Regulation 2018/1725. Indeed, in accordance with that Regulation, any potential communication concerning the professional relationship between an Institution and a given staff member is personal data.

It derives from the above that the rules on the protection of privacy do not allow the Commission to even confirm the existence of documents concerning the communication related to an individual’s possible 20-year service medal. The mere disclosure of that information would indeed infringe the privacy of the person concerned. To that extent, the consideration of a partial disclosure, in this context, must be ruled out.

Consequently, in view of the above, I regret to inform you that your request for access to documents cannot be granted under Regulation (EC) No 1049/2001.

In accordance with Article 7(2) of Regulation No 1049/2001, you are entitled to make a confirmatory application requesting to review this position.

³ Judgment of the Court of Justice of 20 May 2003 in Case C-465/00, *Österreichischer Rundfunk and Others*, paragraph 73.

⁴ Judgment of the General Court of 27 November 2018 in Joined Cases T-314/16 and T-435/16, *VG v Commission*, paragraph 64, ECLI:EU:T:2018:841

⁵ Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, EU:C:2010:378, paragraph 59.

⁶ Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

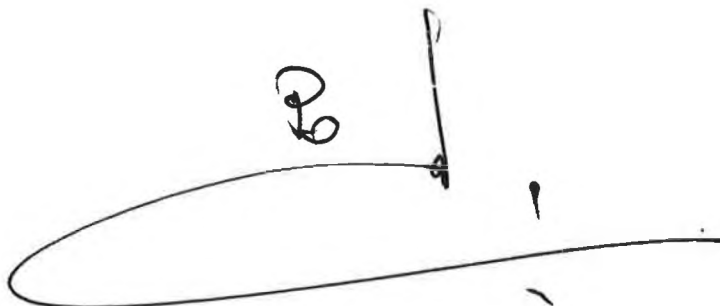
⁷ Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

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, Document Management & Access to Documents (SG.C.1)
BERL 5/282
B-1049 Bruxelles

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

Yours faithfully,

A handwritten signature in dark ink, featuring a large, sweeping loop on the left and a vertical stroke on the right, with a small mark below the loop.

Irene SOUKA