



EUROPEAN COMMISSION

BUDGET

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By registered letter with  
acknowledgment of receipt

Advance copy by email: ask+request-  
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**Subject: Your application for access to documents – Ref GestDem 2019/1532  
and GestDem 2019/2029**

Dear Mr Merino,

We refer to your e-mails dated 13/03/2019 and 15/03/2019, in which you make a request for access to documents, registered under reference numbers GestDem 2019/1532 and GestDem 2019/2029, respectively.

You request access to a list of all lobby meetings held by the commissioner in charge of Budget/ Human Resources and Security, Günther H. Oettinger, or any other member of its Cabinet with any organisations representing churches and/or religious communities since 2014 onwards, including all emails, minutes, reports or any other briefing papers related to all those meetings.

Please note that, as Commissioner Oettinger is responsible for tasks of the two Directorates-Generals, this reply covers both your requests:

- GestDem 2019/1532, addressed to the Directorate-General for Budget (DG BUDG); and
- GestDem 2019/2029, addressed to the Directorate-General for Human Resources (DG HR)

Your application concerns the following documents:

- Letter from EKD Brussels to Commissioner Oettinger of 16/12/2014 to send conference material related to the EKD synod in Dresden (Ares(2015)55808);

- E-mail from Evangelische Landeskirche in Württemberg to Cabinet Oettinger of 30/01/2015 to accept an invitation to Brussels extended by Commissioner Oettinger (Ares(2015)460834);
- Letter from Evangelische Kirchengemeinde Markgröningen to Commissioner Oettinger of 27/04/2015 to ask for a meeting on the occasion of their yearly convent (Ares(2015)1924300);
- Letter from Evangelische Kirchengemeinde Markgröningen to Commissioner Oettinger of 27/06/2015 thanking him for visiting their convent in Brussels in the previous week (Ares(2015)2807104);
- Letter from Evangelisches Dekanatamt Biberach to Commissioner Oettinger of 27/10/2016 to invite him to speak at a church service commemorating Reformation and to ask for a meeting in Brussels with the priests of the Evangelischer Kirchenbezirk Biberach (Ares(2016)6263078);
- Letter from the Arbeitsgemeinschaft der Evangelischen Jugend in Deutschland e.V. (the youth association of the EKD ) to Commissioner Oettinger of 08/02/2017 to request that he appear in a video about Europe (Ares(2017)786557);
- E-mail from EKD Brussels to Cabinet Oettinger of 21/02/2017 to remind of the request for video appearance by Commissioner Oettinger (Ares(2017)786557);
- E-mail from Rat für Nachhaltige Entwicklung to Cabinet Oettinger of 31/05/2017 to request a meeting on the occasion of an EPSC conference (Ares(2017)2734257).
- E-mail from EKD Brussels to Cabinet Oettinger of 11/09/2018 to request a meeting to discuss the current state of the EU (Ares(2018)4662959);

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.

The applicable legislation in this field is Regulation (EU) 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/EC1 ('Regulation 2018/1725').

Some of the documents to which you request access contain personal data, in particular names, e-mail addresses, telephone numbers and signatures.

Indeed, Article 3(1) of Regulation 2018/1725 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.<sup>2</sup> Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data.<sup>3</sup>

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<sup>1</sup> Official Journal L 205 of 21.11.2018, p. 39.

<sup>2</sup> 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](#).

<sup>3</sup> Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, paragraphs 43-44, [ECLI:EU:T:2018:560](#).

In its judgment in Case C-28/08 P (*Bavarian Lager*)<sup>4</sup>, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable<sup>5</sup>.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if ‘[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests’.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned. As to the handwritten signatures, which are biometric data, there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned.

In case you would disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit a confirmatory application requesting the Commission to review this position.

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<sup>4</sup> 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.

<sup>5</sup> 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.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the Commission at the following address:

European Commission

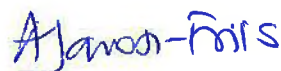
Secretariat-General

Unit C.1. 'Transparency, Document Management and Access to Documents'

BERL 7/076

B-1049 Bruxelles, or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,



Anna JAROSZ-FRIIS  
Head of Unit