



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL  
The Secretary General

Brussels, 13.01.2014  
SG.B.5/LR/rc - sg.dsg1.b.5(2013) 4067325

Mr Arun DOHLE

**By email only: ask+request-694-  
c13d6b04@asktheeu.org**

**Decision of the Secretary General pursuant to Article 4 of the Implementing Rules to  
Regulation (EC) N° 1049/2001<sup>1</sup>**

**Subject: Your confirmatory application for access to documents under  
Regulation N° 1049/2001 - Gestdem 2013/4042**

Dear Mr Dohle,

I refer to your e-mail of 18 November 2013, registered on 25 November 2013, by which you lodge a confirmatory application in accordance with Article 7(2) of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup> (hereafter Regulation 1049/2001).

**1. SCOPE OF YOUR REQUEST**

In your initial application of 16 July 2013, registered on 20 July 2013, you requested access to "*all correspondence between Commissioner Olli Rehn or his Cabinet with VP Jacques Barrot with regard to Romanian child protection and/or adoption*".

At the initial stage, DG ELARG identified the following documents falling under the scope of your request:

1. *A letter from Vice-President Jacques Barrot to Commissioner Olli Rehn dated 20 April 2005;*
2. *A letter from Vice-President Jacques Barrot to Commissioner Olli Rehn dated 30 May 2005.*

It however informed you that no replies by Commissioner Olli Rehn to Vice-President Jacques Barrot were found corresponding to the description given in your application.

<sup>1</sup> Official Journal L 345 of 29.12.2001, p. 94.

<sup>2</sup> Official Journal L145, 31.05.2001 p.43.

DG ELARG provided in its initial reply full access to document 1, whereas it gave partial access to document 2. Partial access was based on:

- Article 4 (1) (b) of Regulation 1049/2001 regarding paragraph 6 of the letter, since "*disclosure would undermine the protection of privacy and the integrity of the individual*",
- And on the grounds that the content of the first four paragraphs is considered "*to fall outside the scope of your request*".

Through your confirmatory application, you request a review of this position, asking for full disclosure of document 2 regarding paragraph 6, as "*the personal data was already released in the framework of another Ask the EU request*". Concerning the remaining expunged parts, you have lodged an initial demand which is currently being handled by DG ELRAG under a new GestDem number.

You also claim that a reply by Commissioner Olli Rehn to Vice-President Jacques Barrot indeed exists and request further examination as well as disclosure of this letter.

## **2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001**

When assessing a confirmatory application for access to documents submitted pursuant to Regulation 1049/2001, the Secretariat General conducts an independent review of the reply given by the Directorate General concerned at the initial stage.

Following this review, I am pleased to inform you that further partial access can be granted to document 2 for the reasons set out below.

### **2.1. Third-party consultation**

Given that the personal data contained in the aforementioned letter makes reference to a third party – the person whose name is included in the document held at the time a position in CARE Association, the Commission consulted the third party concerned at the confirmatory stage, in accordance with Article 4(4) of Regulation No 1049/2001. That Article provides, as regards third-party documents, that the institution shall consult the third party with a view to assessing whether an exception of Article 4 paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

On 6 December 2013 my services sent a consultation to the organisation CARE in order to assess whether the personal data of one of its members could be disclosed. On the same day and in reply to that consultation, the third party stated that it had no objections to grant access to the previously expunged paragraph. The Commission, based on its own assessment, has neither been able to identify any grounds for refusing the documents requested under Regulation 1049/2001 and hence does not find that the exception in Article 4 (1) (b) on privacy and the integrity of the individual applies.

Therefore, further access has been granted to you at the confirmatory stage.

## **2.2. Further correspondence between Commissioner Olli Rehn and Vice-president Jacques Barrot**

In your confirmatory application and following DG ELARG's claim that there were no replies by Commissioner Rehn to Vice-president Jacques Barrot, you state that "*[f]urther research from my side indicates that such a letter was sent in June 2005*". You request a re-examination in the archives as well as the disclosure of this letter, including its annexes.

The Commission confirms, after a thorough investigation, that it has identified a new document as falling within the scope of your confirmatory application:

- *Letter by Commissioner Olli Rehn to Vice-president Jacques Barrot of 9 June 2005, plus the following annexes:*
  - *Letter by Commissioner Olli Rehn to Mr. de Combret of 4 April 2004;*
  - *Letter by President José Manuel Barroso of 13 January 2005;*
  - *Document: Children's Right and the Enlargement Process, of April 2005.*

After an assessment by the Secretariat General, I am pleased to inform you that full access has been granted to such document.

I hereby attach copies of the letters concerned and remain at your disposal.

Yours sincerely,



Catherine Day

Enclosures:

- 1) Letter from Vice-President Jacques Barrot to Commissioner Olli Rehn dated 30 May 2005.
- 2) Letter from Commissioner Olli Rehn to Vice-president Jacques Barrot dated 9 June 2005 and annexes.