



EUROPEAN COMMISSION

Secretariat-General

Directorate C - Transparency, Efficiency & Resources
The Director

Brussels
SG.C.1/CS

By registered mail with AR

Mr Peter Teffer
Ekko Voorkamer
Bermuude Weerd WZ 3
3513 BH Utrecht
The Netherlands

Copy by email:
[ask+request-7413-
107f5685@asktheeu.org](mailto:ask+request-7413-107f5685@asktheeu.org)

Subject: Your application for access to documents – GESTDEM 2019/6118

Dear Mr Teffer,

I refer to your message of 28/10/2019 in which you make a request for access to documents, registered on the same day under the above-mentioned reference number.

You requested, I quote: ‘- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails sent before and after, and presentations - related to the 24/06/2019 meeting between Mr José Manuel Barroso of the Goldman Sachs Group, and President Jean-Claude Juncker’.

The Commission has identified the following documents as falling within the scope of your request:

1. Program for the ceremony of the presentation of the book “European Commission 1986-2000 – History and Memory of an Institution” of 24 June 2019 (hereafter ‘document 1’);
2. Program for the visit of the former Presidents of the European Commission of 21 June 2019 (hereafter ‘document 2’).

1. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) No 1049/2001

Following our assessment, I hereby inform you that wide partial access is granted to the requested documents, subject only to the redaction of personal data in document 1, in accordance with Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001, for the reasons set out below.

1.1. Protection of privacy and the integrity of the individual

Pursuant to Article 4(1)(b) of Regulation (EC) 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 (hereafter ‘Regulation (EU) 2018/1725’).

The documents to which you request access, in particular document 1, contain personal data, in particular the names pertaining to third party individuals who are not considered as public figures acting in their public capacity.

Indeed, Article 3(1) of Regulation (EU) 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.²

In its judgment in Case C-28/08 P (*Bavarian Lager*)³, 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.⁴

Pursuant to Article 9(1)(b) of Regulation (EU) 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

¹ Official Journal L 205 of 21.11.2018, p. 39.

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](#).

³ Judgment of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd*, Case C-28/08 P, EU:C:2010:378, paragraph 59.

⁴ 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 (EU) 2018/1725.

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 (EU) 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation (EU) 2018/1725, the Commission has to examine the further conditions for the lawful processing of personal data only if the first condition is fulfilled, namely if the recipient establishes 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 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 Commission does not have to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced.

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.

2. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

Article 4(1)(b) of Regulation (EC) No 1049/2001 does not include the possibility for the exception defined therein to be set aside by an overriding public interest.

3. PARTIAL ACCESS

Please note that partial access is granted to the requested documents.

4. 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, including 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.

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

Yours faithfully,

Tatjana Verrier
Director

Enclosures: (2)