



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

The Director-General

Brussels
HR/GI

Mr. Arun Dohle
Against child trafficking
ask+request-9875-3a51356d@asktheeu.org

Dear Sir,

Subject: Your applications for access to documents – Ref GestDem No 2021/5327 and No 2021/5168

We refer to your requests dated 22/08/2021 in which you make a request for access to documents, registered on 23/08/2021 and on 03/09/2021 under the above mentioned reference number.

You request access to “Ares Registration fiches and related correspondence related to the letters to Commissioners Oettinger and Timmermans sent per registered mail by Mrs. Roelie Post in August 2018” and “All correspondence, internal/external, about whistleblower Roelie Post. Including the Ares registration fiches. And also including documents related to Mr. Oettinger's decision to agree to the retro-active retirement and retroactive back payments”. This replies concerns the part of the request linked to Commissioner Oettinger.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(1) b) of this Regulation.

Article 4(1)(b) of Regulation 1049/2001 provides that *‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data’*.

I consider that public disclosure of the documents requested would undermine the privacy and integrity of those individuals within the meaning of Article 4(1)(b) of Regulation (EC) No 1049/2001.

In case C-28/08 P (*Bavarian Lager*)¹, the Court of Justice ruled that when a request is made for access to documents containing personal data, Regulation (EU) No 2018/1725 of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union

¹ Judgement of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd* (hereafter referred to as ‘*European Commission v The Bavarian Lager judgment*’) C-28/08 P, EU:C:2010:378, paragraph 59.

institutions, bodies, offices and agencies and on the free movement of such data 2018/1725 (hereinafter “Regulation (EU) No 2018/1725” becomes fully applicable².

Consequently the disclosure of such data falls under the exception concerning the protection of privacy and the integrity of the individual provided for in Article 4(1)(b) of Regulation 1049/2001. 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.

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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

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

Yours faithfully,

Electronically signed

Gertrud Ingestad

² This judgement specifically cited Regulation 45/2001, which was repealed by Regulation 2018/1725. In accordance with Article 99 of that latter Regulation, references to Regulation 45/2001 should be construed as references to Regulation 2018/1725. However, please note that the case law issued with regard to Regulation 45/2001 remains relevant for the interpretation of Regulation 2018/1725.