

EUROPEAN COMMISSION
DIRECTORATE-GENERAL COMMUNICATION

Director-General

Brussels, 10 July 2014
COMM/B/MT/ps

Mr Erik Wesselius
ask+request-1308-cd53d2f4@asktheeu.org

Dear Mr Wesselius,

**Subject: Your request for access to documents under Regulation (EC)
No1049/2001 - reference GestDem No 2014/1959**

I refer to your e-mail, dated 10 April 2014 in which you make a request for access to documents, registered on 11 April 2014 under the above mentioned reference number.

Your request refers to "*all documents (including emails, notes, memos, reports) drawn up for the European Commission by Mr Annaert on the economic, social and political situation in The Netherlands since his appointment as European Semester Officer in The Hague in January 2013*". I have identified 16 documents, listed in Annex 1, which fall within the scope of your request.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that you can have full access to document n° 1 in the list. I enclose a copy of the document requested.

You may reuse the documents requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

The rest of the documents may only be partially disclosed. Some parts of these documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The expunged parts of documents n° 2 to 16 in Annex 1 contain opinions for internal use as part of deliberations and preliminary consultations within the Commission.

Disclosure of these parts would curtail the "space to think", i.e. the possibility of Commission staff to freely submit uncensored advice. In this manner, public access to these parts of documents would impair the quality of the decision-making process. Disclosure of these parts would also seriously undermine the right of Members of the Commission to the frankly-expressed and complete views of their own services and would carry a risk of self-censorship by Commission staff.

The exceptions laid down in Article 4(3) of Regulation (EC) 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. Having carefully examined your request in the light of Article 4(3) of Regulation (EC) 1049/2001, I have been unable

to identify in this particular case the existence of an overriding public interest which could justify the disclosure of these parts of documents. I also note that you have not put forward any arguments demonstrating the existence of a public interest capable of overriding the public interest protected by Article 4(3) of Regulation (EC) 1049/2001.

Moreover, some of the documents to which you have requested access (emails no 4, 12, 14, 15 and 16 in the list) contain personal data.

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 Community legislation regarding the protection of personal data. The applicable legislation in this field is 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 data¹.

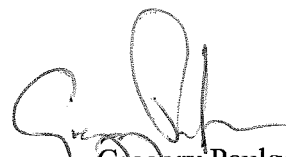
When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

It is considered that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, the documents requested are being disclosed, expunged of this personal data.

If you wish to receive these personal data, you are invited to provide reasons showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed. In case you would disagree with this assessment you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make an 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
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Gregory Paulger

¹ OJ L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, not yet reported