

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY
Director-General

Brussels, 17 AVR. 2015

Ms Vicky Cann
CEO
Rue d'Edinburg 26
1050 Brussels
By email: ask+request-1845-547ce46f@asktheeu.org

Subject: Your application for access to documents – Ref /GestDem No 2015/1583

Dear Ms Cann,

I refer to your e-mail dated 13 March 2015 and registered on 16 March 2015 in which you make a request for access to documents.

Your application concerns *"all documents which relate to any article 16 (staff regulations) applications made by Massimo Baldinato including to work for FTI Consulting."* You request in particular, *"a note of all Massimo Baldinato's job titles at the Commission including dates held; copies of any application(s) that Massimo Baldinato has made under article 16 to undertake a new professional activity; and all documents correspondence, emails, meeting notes etc) related to the authorisation of the new role or roles."*

I have examined your request under the provisions of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents".

The documents identified are the application form submitted by Mr Baldinato in the framework of Article 16 of the Staff Regulations and the related decision response from the Appointing Authority. We have also identified email exchanges within Commission services or between Commission services and Mr Baldinato pertaining to the underlying internal procedures concerning this request for authorisation (covering a period from 15/12/2014 to 19/02/2015).

The documents you requested contain personal data relating to the past and present occupational activities of Mr Baldinato. It is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, also in his professional capacity, are correctly protected. This is why I consider that the exception foreseen in Article 4(1) (b) of Regulation No 1049/2001 applies. As for the email exchanges between the Commission services and Mr Baldinato the exception foreseen in Article 4(3) paragraph 2 of Regulation No 1049/2001 also applies. While I have also considered the possibility of granting partial access, I have concluded that this would equally undermine the protection of personal data.

Against this background, I can nevertheless provide you with the following general information on the process to which your request relates.

Mr Baldinato submitted a Declaration of intention to engage in an occupational activity after leaving the Commission (Article 16 of the Staff Regulations) dated and registered on 15 December 2014. His only request under this Article related to the authorisation to engage in a remunerated occupational activity as a Senior Director at FTI Consulting.

Following the general rules concerning the consultation process for this type of request, the Appointing Authority gave its approval to carry out this activity as it did not lead to a conflict with the legitimate interests of the institution.

Mr Baldinato was reminded of the specific staff obligations as laid down in Articles 16, 17 and 19 of the Staff Regulations, as well as in Article 19 of the Commission Decision on outside activities and assignments and Article 339 of the Treaty on the Functioning of the European Union.

I can also provide you with some information on the last post held by Mr Baldinato. From the 2010 to 2015 period which was assessed as regards any potential conflict of interest, he was a Member of Cabinet of Mr Antonio Tajani (former Vice President) responsible for Industry and Enterprise. Between 2014 and 2015, Mr Baldinato was also a legal officer placed at the disposal of DG Enterprise and responsible for assessing the transposition of the Late Payment Directive into national laws.

I would like to remind you that Corporate Europe Observatory remains subject to the provisions implementing Directive 95/46/EC¹ on the protection of individuals with regard to the processing of personal data according to which personal data must, *inter alia*, be processed fairly and lawfully and subject to the unambiguous consent of the data subject concerned.

In accordance with Article 7(2) of Regulation No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

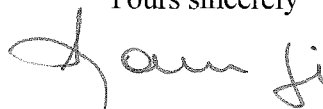
Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 Brussels

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

Finally, please be informed that a copy of this letter will be sent to the person concerned.

Yours sincerely



Irene SOUKA

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data