



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
HUMAN RESOURCES AND SECURITY

Director-General

Brussels,

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*By registered letter with
acknowledgment of receipt*

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2015/6636

We refer to your e-mail dated 10 December 2015 in which you make, among others, a request for access to documents. This request was registered on 17 December 2015 under the above-mentioned reference number.

Points 5 and 6 of your mail do not constitute a request for access to documents, but a request for information. Point 5 is being dealt with by the Directorate-General for Justice and Consumers (DG JUST), which will directly reply to you. Regarding point 6, I refer to the website on President Juncker's team (https://ec.europa.eu/commission/2014-2019/president/team_en), where the responsibilities of Mr Michael Shotter are described.

Concerning point 4 of your mail, I refer to pages 3 to 8 of the Official Journal C 415 of 15 December 2015 (enclosed), and in particular to the table of the amounts of basic monthly salaries on page 3. I would like to add for your information that Heads of Unit are classified in grades AD 9 to AD 14 and Directors in grades AD 14 to AD 15.

As regards point 1 of your mail, the post of Head of Unit JUST.A.1 was published in accordance with the normal Commission procedures. 19 officials submitted their application for this post. I enclose the vacancy notice (COM/2013/1693) and the appointment decision of 20 November 2013. For data protection reasons, the grade of Mr Shotter was redacted in this decision. For the same reasons, which are explained below in more detail, the other documents relating to this selection procedure cannot be disclosed.

With regard to point 2 of your mail, I have to signal that Mr Shotter was seconded to the Cabinet of President Juncker in the interests of the service, on the basis of Articles 37(a) and 38 of the Staff Regulations of Officials of the European Union. Accordingly, as Article 29 of the Staff Regulations was not applicable, there was no formal selection procedure. For the above-mentioned data protection reasons, the documents concerning this secondment cannot be made public, with the exception of the final decision, which is enclosed to the present note (and in which the grade of Mr Shotter had to be redacted).

As was the case for the post of Head of Unit JUST.A.1, the post of Director JUST.D was published under the usual Commission procedure. In order to address point 3 of your mail, I enclose the vacancy notice (COM/2014/149), which led to the application of five officials. Ms Saastamoinen was appointed by decision of the College of Commissioners of 9 April 2014, which you will find on page 36 of the annexed minutes of the Commission meeting.

The other documents concerning the selection procedures COM/2013/1693 and COM/2014/149 and the secondment of Mr Shotter contain personal data relating, respectively, to Mr Shotter, Ms Saastamoinen and the other applicants. 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.

Those two conditions are cumulative. Only if both conditions are fulfilled, can the processing (transfer) of personal data be considered as compliant with the requirement of lawfulness provided for in Article 5 of Regulation No 45/2001.

We consider 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. We are therefore not in a position to grant access to the documents in question.

I have also examined the possibility of granting partial access to the requested documents in accordance with Article 4(6) of Regulation No 1049/2001. However, apart from the two documents in which the grade of Mr Shotter was redacted, partial access is not possible given that these documents are covered in their entirety by the exception under Article 4(1)(b) of Regulation No 1049/2001.

In case you would disagree with the assessment that these documents cannot be disclosed under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation No 1049/2001, 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-4
BERL 5/327
B-1049 Bruxelles

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, ECR 2010 I-06055.

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

Yours faithfully,



Irene SOUKA
Director-General

Enclosures: Pages 3 to 8 of the Official Journal C 415 of 15 December 2015
Vacancy notice COM/2013/1693
Decision appointing Mr Shotter to the post of Head of Unit JUST.A.1
Decision on the secondment of Mr Shotter
Vacancy notice COM/2014/149
Minutes of the College meeting of 9 April 2014 (PV(2014) 2082)