



EUROPEAN COMMISSION
Directorate-General for Communications Networks, Content and Technology
Director-general

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By registered letter with acknowledgment of receipt

Robin Pepermans

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Unter den Linden 50
11011 Berlin

Advance copy by email: ask+request-2781-7e2e50c9@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2016/1922

Dear Ms. Pepermans,

We refer to your e-mail dated 13/04/2016 in which you make a request for access to documents, registered on 14/04/2016 under the above-mentioned reference number. We also refer to our holding reply of 04/05/2016 concerning the extension of the deadline. We also refer to the first reply sent to you on 01/06/2016.

You request access to documents relating to the Europa Forum Lech hosted by Commissioner Günther Oettinger on 13-15 April 2016. More specifically:

- a) a list of participants in case the list available on http://europaforum.lech.eu/draft_pro/Participants.pdf is not accurate and up-to-date;
- b) information (such as emails, memos, letters) about invited people, suggestions for invitations and requests by third persons to be invited;
- c) documents (in a broader sense, including emails, letters, notes etc) that were sent or received to Europa Forum participants before or after the meeting;
- d) any documents or other information exchanged in meetings with Commissioner Oettinger during or in the context of the Europa Forum;
- e) information about meetings with Europa Forum participants and Commission people also before or after the Europa Forum;
- f) the documents regarding the expenses made by the European Commission on anything related to the Europa Forum;
- g) a list of people that Commissioner Oettinger met in last year's (i.e. 2015) Europa Forum Lech.

I consider your request to cover documents held up to the date of your initial application, i.e. 14/04/2016.

Your request concerns a rather large number of documents. For several of them, we are still in the process of conducting a third party consultation and for others we need to consult other Commission services.

Therefore, we are, for the moment, sending you our second reply to your request for access regarding pts b) and f) of your request. The documents concerned are mentioned under each point of your request.

b) information (such as emails, memos, letters) about invited people, suggestions for invitations and requests by third persons to be invited;

i) I would like to inform you that with regard to this part of your request there are several documents that we are currently examining, since they require consultations with third parties and other Commission services.

ii) This reply includes in the Annex those documents that originate from third parties whom we have consulted.

- Letter from Commissioner Cañete to Commissioner Oettinger – Ares (2016)540597 - 01/02/2016
- Letter from Commissioner Bulc to Commissioner Oettinger (16/02/2016)
- E-mail from Fastweb – Ares (2016)2327234 – 15/04/2016
- E-mail & Joint Statement from ENISA – Ares (2016)1831884 – 15/04/2016
- Letter from Secure PIM – Ares (2016)3567804 – 18/07/2016

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 (hereafter the 'Data Protection Regulation') 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.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

¹ Official Journal 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.

In addition, having examined the document "Letter from Secure PIM – Ares (2016)3567804 – 18/07/2016", I have also come to the conclusion that disclosure of some parts of the document is prevented by an exception to the right of access laid down in Article 4 of the Regulation (EC) No 1049/2001, as they contain commercially sensitive business information of the company that submitted the document in question, so these parts have been blanked out.

Please note that the documents received by the Commission from a third party are disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on it. They do not reflect the position of the Commission and cannot be quoted as such.

f) the documents regarding the expenses made by the European Commission on anything related to the Europa Forum;

I would like to inform you that only mission expenses occurred to the EC in relation to the Europa Forum Lech.

We have identified the following documents related to that part of your request to which we cannot provide access for the reasons set out hereunder:

Mission declarations MIPS No.: DL-16-1209146; DF-16-1209693; DL-16-1198673; DL-16-1200907; DF-16-1198322; DL-16-1208667; DL-16-1209497; DL-16-1192979; DL-16_1198615; DL-16-12048.

Article 4(1)(b) of Regulation 1049/2001 provides that access to documents is refused where disclosure would undermine the protection of privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

Article 2(a) of the Data Protection Regulation provides that personal data shall mean any information relating to an identified or identifiable person. As the Court of Justice confirmed in Case C-465/00 (Rechnungshof), there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of "private life".

The declarations of mission expenses therefore clearly constitute personal data in the meaning of Article 2(a) of the Data Protection Regulation.

Therefore, as stated above, when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.

In accordance with Article 8 (b) of the Data Protection Regulation, personal data shall only be transferred to recipients if the necessity to disclose the personal data has been established and there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced. These conditions are cumulative.

As the Court has also explained, if the applicant does not provide any express and legitimate justification in order to demonstrate the necessity for the personal data to be transferred, the Commission cannot weigh up the interests, and the request must therefore be refused.

In the present case, I note that you have not put forward any arguments to substantiate a need to obtain these personal data. Furthermore, it cannot be assumed that the disclosure of the personal data would not prejudice the legitimate rights of the persons concerned.

In accordance with Article 4(6) of Regulation 1049/2001, I have considered the possibility of granting partial access to the document requested. However, for the reasons explained above, no meaningful partial access (going beyond the aggregated figure provided to you below) is possible without undermining the interests described above.

However, I have therefore decided to inform you that the total costs for the Commission amounted to 12599.25 euros.

Confirmatory application

In case you would disagree with the assessments above, you are entitled, in accordance with Article 7(2) of Regulation 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 5/282
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,



Roberto Viola

Encl.: Redacted documents