



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Director-General

Brussels,
MOVE/D/D.1/GM/2017

*By registered letter with
acknowledgment of receipt*

Mr Bryan Carter
42 Rue Paul Lauters
B-1050 Brussels

Advance copy by email:

ask+request-3707-a4fb3a92@asktheeu.org

Subject: Your application for access to documents - Ref GestDem No. 2017/99

Dear Mr Carter,

We refer to your email dated 05/01/2017 in which you make a request for access to documents, registered under the above-mentioned reference number and to our holding reply of 27/01/2017.

Your application concerns the following documents:

-Minutes of the meetings:

1. Meeting between Commissioner Violeta Bulc and BUSINESSEUROPE on 17 February 2015
2. Meeting between Desiree Oen and BUSINESSEUROPE on 3 February 2015

Having examined the documents requested, I would like to inform you that:

With regard to the Meeting on 3 February 2015 (Nr. 2), we regret to inform you that no documents were found that would correspond to the description given in your application.

Indeed, as specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

Given that no such documents have been identified, the Commission is not in a position to handle your request regarding this Meeting.

With regard to the Meeting on 17 February 2015 (Nr.1), I regret to inform you that your application cannot be granted, as disclosure is prevented by the exception to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹.

In particular, Article 4(2) of such Regulation states as follows:

"2. The institutions shall refuse access to a document where disclosure would undermine the protection of:
— commercial interests of a natural or legal person, including intellectual property,
(...),
unless there is an overriding public interest in disclosure."

Disclosure of the document requested would undermine the protection of the commercial interests of BUSINESSEUROPE, as putting this information in the public domain would affect the competitive position of its members on the market. Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to these documents.

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but have not been able to identify such an interest.

We have also considered whether partial access could be granted to the document requested and we have come to the conclusion that partial access may be granted under the condition that the information that affects the commercial interests of the persons or entities concerned are not disclosed.

In addition, 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, Article 4(1)(b) of Regulation (EC) No 1049/2001 establishes as follows:

"1. The institutions shall refuse access to a document where disclosure would undermine the protection of:
(...)
(b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data."

The applicable legislation in the field of the protection of personal data is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the

¹ OJ L 145 of 31.5.2001, p.43.

protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data².

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³.

Therefore, some parts of the document disclosed have been made illegible because they contain personal data, (including names) pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001.

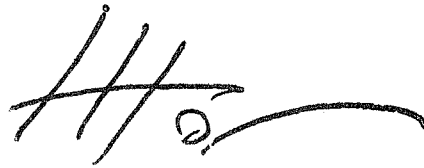
In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

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-4
BERL 5/282
B-1049 Bruxelles

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

Yours sincerely,



Henrik HOLOLEI

² OJ L 8 of 12.1.2001, p. 1.

³ 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.