

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

Brussels, 20 JUN 2017

By registered letter with acknowledgment of receipt

Ms Margarida DA SILVA
Rue d'Edimbourg 26
B-1050 Brussels

Advance copy by email:

ask+request-4218-fb3ff274@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2017/2621

Dear Ms Da Silva,

I refer to your e-mail dated 3 May 2017 and registered on the same day under the above-mentioned reference number by which you make a request for access to documents.

Your request (as amended on 4 May 2017) concerns *"all documents which relate to any article 16, article 12B and article 40 (staff regulations) applications made by Deputy Director-General of DG Research and Innovation Ruxandra Draghia-Akli, including to work for Merck & Co"*. In particular, you request *"a note of all Ms. Draghia-Akli job titles at the Commission including dates held; copies of any application(s) that she has made under article 12b, 16 and 40 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 inform you that I have examined your request in the light of the provisions 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 documents.

In that respect, the documents which I have identified as falling under the scope of your request refer only to an application made by Ms. Draghia-Akli under Article 12b linked to her application made under Article 40 of the Staff Regulations:

- One application form covering both the request under Article 40 of the Staff Regulations and the request under Article 12b of the Staff Regulations to engage into an occupational activity, which was submitted by Ms. Draghia-Akli on 01/03/2017 and registered on the same date, and the corresponding decisions of the Appointing Authority.

- E-mail exchanges pertaining to the underlying internal procedures concerning this request for authorisation and covering the period from 16 February 2017 to 13 March 2017.

The documents you requested contain personal data relating to the requested leave on personal grounds and the envisaged occupational activity of Ms. Draghia-Akli. It is the Commission's obligation to ensure that the privacy and the integrity of the EU staff member concerned, also in her professional capacity, are correctly protected. For this reason, I consider that the exception laid down in Article 4(1) (b) of Regulation No 1049/2001 applies.

As for the e-mail exchanges within the Commission services, I have concluded that access to those documents cannot be granted since the exception in the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 applies.

While I have also considered the possibility of granting partial access on the basis of Article 4(6) of Regulation (EC) N° 1049/2001, 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.

On 1 March 2017, Ms Draghia-Akli presented a request under Article 40 of the Staff Regulations, for a leave on personal grounds for the period from 1 June 2017 to 31 May 2018. The leave was granted by decision of the Appointing Authority of 27 March 2017 for the requested period.

In the context of her leave on personal grounds, Ms Draghia-Akli asked under Article 12b of the Staff Regulations, the authorisation to engage in an occupational activity as "*Vice President Public Health and Scientific Affairs – Global Vaccines*" at Merck & Co., Upper Gwynedd, Pennsylvania, USA (which must not be confused with the company Merck KGaA with headquarters in Darmstadt, Germany).

Following the general rules concerning the consultation process for this kind of request, on 21/03/2017 the Appointing Authority authorised this occupational activity for the same period as the leave on personal grounds (from 1 June 2017 to 31 May 2018) as it was not incompatible with the interests of the institution.

Ms Draghia-Akli was informed that she has to make clear that this activity is carried out in her personal capacity, not representing in any way the position or interests of the Commission. It was also recalled to her that, in compliance with Article 40 of the Staff Regulations, she cannot be involved in lobbying or advocacy vis-à-vis the Commission and which could lead to the existence or possibility of a conflict with its legitimate interests and that any possible conflict of interest situation must be reported to the Commission and addressed effectively. In addition, Ms Draghia-Akli was reminded of her duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits, of her obligation to refrain from any unauthorised disclosure of information received in the line of duty and of her obligation to launch a new outside activity request each year (or in case of change of activity in the course of the period covered by the authorisation).

In addition, I can also provide you with the requested information on the posts held by Ms Draghia-Akli at the Commission.

- She was recruited, with effect from 16 March 2009, by the Commission as Director in charge of health research (current Directorate E) in the Directorate-General for Research and Innovation.
- On 1 September 2016, she became, in the same Directorate-General, Deputy Director-General in charge of research programmes, with responsibility for Directorates D (Industrial technology), E (Health), F (Bioeconomy), G (Energy), H (Transport) and I (Climate action and resource efficiency).

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 (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

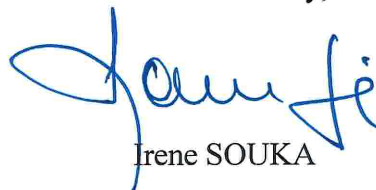
Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
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.