



EUROPEAN COMMISSION  
Secretariat-General

Directorate B  
The Director

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*By registered mail with AR:*

**Mrs Margarida Silva**  
Corporate Europe Observatory (CEO)  
Rue d'Edimbourg 26  
1050 Brussels, Belgium

*Copy by e-mail: ask+request-4680-  
1639cf18@asktheeu.org*

**Subject: Your application for access to documents pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents – ref. GestDem 2017/5186**

Dear Mrs. Silva,

I refer to your e-mails of 7 September 2017 and 18 September 2017 (clarification), registered on the same day, by which you make a request pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup>.

You request access to the following documents:

- *all minutes, notes and other reports relating to the meetings between Commissioner Timmermans' cabinet members and BusinessEurope on the 22/09/2016; 15/11/2016; 16/05/2017;*
- *all correspondence (including emails) between Commissioner Timmermans and his cabinet with BusinessEurope since November 2014.*

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<sup>1</sup> Official Journal L145 of 31.05.2001, p.43.

The Commission services have identified the following documents as falling under the scope of your request:

- 1) E-mail from Mr Feustel, Senior Policy Advisor of BusinessEurope, sent to Mrs Sutton, Deputy Head of Cabinet of First Vice-President Timmermans, on 20 March 2015 (Ref: Ares (2017) 4757850);
- 2) Letter from Mr Beyrer, Director General of BusinessEurope, sent to Mr Timmermans, First Vice-President of the European Commission, on 24 March 2015, including transmission slip (Ref: Ares (2015) 1392321);
- 3) Email from Mr Feustel, Senior Policy Advisor of BusinessEurope sent to Mrs Sutton, Deputy Head of Cabinet of First Vice-President Timmermans, on 20 March 2015 (Ref: Ares (2015) 1506869)<sup>2</sup>;
- 4) Emails between Mrs Sutton, Deputy Head of Cabinet of First Vice-President Timmermans and Mr. Mr Feustel, Senior Policy Advisor of BusinessEurope, exchanged between 25 and 30 March 2015 (Ref: Ares (2015) 1492650);
- 5) Letter from Mr Smulders, Head of Cabinet of First Vice-President Timmermans, sent to Mr Beyrer, Director General of Business Europe, on 13 April 2015 (Ref: Ares (2015) 1588489);
- 6) Emails between Mr Smulders, Head of Cabinet of First Vice-President Timmermans, Mr Beyrer, Director General of BusinessEurope, and Mrs. de Liedekerke Deputy-Director General of BusinessEurope, exchanged between 13 April 2015 and 15 April 2015 (Ref: Ares (2015) 1631592);
- 7) Letter and cover email from Mr Beyrer, Director General of Business Europe, sent to Mr. Smulders, Head of Cabinet of First Vice-President Timmermans, on 11 June (Ref: Ares (2015) 2468394); and Mr. Smulders's reply sent on 3 July 2015 (Ref: Ares (2015) 2795770);
- 8) Letter ( and enclosure) and transmission email from Mr Beyrer, Director General of BusinessEurope, sent to Mr Timmermans, First Vice-President of the European Commission, on 25 May 2016 (Ref: Ares (2016) 2452641);
- 9) Letter from Mrs Sutton, Deputy Head of Cabinet of First Vice-President Timmermans, sent to Mr Beyrer, Director General of BusinessEurope, on 23 June 2016 (Ref: Ares (2016) 29123318);
- 10) Emails between Mrs Sutton, Deputy Head of Cabinet of First Vice-President Timmermans, and Mr Feustel, Senior Policy Advisor of BusinessEurope, exchanged between 23 June and 5 September 2016 (Ref: Ares (2017) 4634104);

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<sup>2</sup> Please note that documents number 1 and 3 include the same Email from Mr. Feustel , Senior Policy Advisor of BusinessEurope sent to Mrs. Sutton, Deputy Head of Cabinet of First Vice President Timmermans, on 20 March 2015. Both sets were erroneously registered with two different Ares numbers

- 11) Emails between Mrs Sutton, Deputy Head of Cabinet of First Vice-President Timmermans, Mr. Colombani and Mrs. Nelen, Members of Cabinet of First Vice-President Timmermans, and Mr Feustel, Senior Policy Advisor of BusinessEurope, exchanged between 4 October and 14 November 2016 (Ref: Ares (2016) 6070303);
- 12) Letter to Mr. Timmermans, First Vice-President of the European Commission, sent by Mr Beyrer, Director General of BusinessEurope, on 6 December 2016 (Ref: Ares (2016) 6821485); and letter of Mr Smulders, Head of Cabinet of First Vice-President Timmermans, and Mr Beyrer, Director General of BusinessEurope sent on 10 February 2017 (Ref: Ares (2017) 756124);
- 13) Emails between Mr Smulders, Head of Cabinet of First Vice-President Timmermans, Mr. Colombani, Member of Cabinet of First Vice-President Timmermans, and Mr Beyrer, Director General of Business Europe, exchanged between 10 February and 13 March 2017 (Ref: Ares (2017) 4616190);
- 14) Letter from Mr Beyrer, Director General of BusinessEurope, sent to Mr. Timmermans, First Vice-President of the European Commission on 13 July 2017 (Ref: Ares (2017) 3550214);

Having examined the documents requested under the provisions of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, I have decided to grant access to all the documents requested, with the exception of the personal data (name and contact details) of the officials and staff members who do not occupy any senior position, as well as handwritten signatures, appearing therein.

As regards the name of the official or staff member who does not occupy any senior management position and the handwritten signatures appearing in the documents, these must be protected pursuant to Article 4(1)(b) of Regulation 1049/2001 (protection of the privacy and integrity of the individual), as explained below.

Article 4(1)(b) provides that *the institutions shall refuse access to a document 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.*

The names of the officials or staff members and the handwritten signatures contained in these documents clearly constitute personal data in the meaning of Article 2(a) of the Data Protection Regulation.

In accordance with Article 8(b) of Regulation 45/2001, 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.

The Court also ruled that, 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<sup>3</sup>.

In the present case, I note that you have not put forward any arguments to substantiate a need to obtain the above-mentioned personal data, nor any specific interest in obtaining these data.

Furthermore, as regards the names appearing in the documents, it cannot be assumed that the legitimate interests of the official concerned would not be prejudiced by the disclosure.

As to the handwritten signatures, which are biometric data, I am of the view that the disclosure would prejudice the legitimate interests of the persons concerned, as it would expose them to the risk of forgery.

Therefore, in accordance with Article 4(1)(b) of Regulation 1049/2001, access to the personal data contained in the documents requested has to be refused, as the need for public disclosure has not been substantiated, and it cannot be assumed that the disclosure would not prejudice the legitimate rights of the individuals concerned.

Please note also that Article 4(1)(b) of Regulation 1049/2001 does not include the possibility for the exception defined therein to be set aside by an overriding public interest.

Please note that internal registration messages of a purely administrative nature contained in documents from the Commission have been redacted as they fall out of the scope of your request.

In case you would disagree with the above assessment, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to introduce a confirmatory application requesting the Commission to review this position.

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<sup>3</sup> Judgment of 29 June 2010, C-28/08 P, paragraphs 77-78.

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-B4  
BERL 5/340  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu).

Yours sincerely,



Pascal Leardini

Annexes : documents to which access is granted