



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

The Director-General

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*By registered letter with acknowledgment
of receipt*

João Costa

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Subject: Your application for public access to documents – GestDem Ref No 2017/7371

Dear Mr Costa,

We refer to your email dated 09/12/2017 in which you submitted, within the framework of Regulation (EC) 1049/2001¹, an application for access to documents.

1. SCOPE OF YOUR REQUEST

You requested access to the correspondence and notes of the meetings of Commissioner Carlos Moedas, his cabinet and DG Research with GALP (GALP Energia SGPS, GALP gasnatural SA).

We have identified 9 documents falling under the scope of your request (hereinafter the 'requested documents'), namely several letters, emails exchanges and briefing notes.

2. EXAMINATION UNDER REGULATION (EC) NO 1049/2001

Having examined the requested documents under the provisions of Regulation (EC) 1049/2001, and taking account of the legitimate interests of any third party concerned, we are pleased to inform you that partial access can be granted to the requested documents. Some information has been withheld, as it concerns commercially sensitive information and the personal data, as explained below.

¹ 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 (OJ L 145, 31.5.2001, p. 43) , hereinafter referred to as 'Regulation (EC) 1049/2001'.

2.1 Protection of commercial interests of a natural or legal person, including intellectual property

Article 4(2), first indent, of Regulation (EC) 1049/2001 provides that "[t]he 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".

The requested documents number 1, 2, 6 and 7 contain references to certain strategic considerations and R&D projects being developed by GALP in the energy sector that have a fundamental importance for the activities of the company. The disclosure of this information would provide insights to competitors that are prejudicial to the business of GALP or could undermine the ongoing projects and their potential for commercial roll-out considering the competitive environment in which the company develops its activities.

The public disclosure of this information might undermine the commercial interests of the GALP within the meaning of Article 4(2), first indent, of Regulation (EC) 1049/2001.

Article 4(2), first indent, of Regulation (EC) 1049/2001 (protection of commercial interests) applies unless there is an overriding public interest in disclosure of the documents requested. In this instance, we have found no elements which could indicate the existence of an overriding public interest in the sense of Regulation (EC) 1049/2001 that would outweigh the need to protect the commercial interests identified in the present letter.

2.2 Protection of privacy and the integrity of the individual

According to Article 4(1)(b) of Regulation (EC) 1049/2001, access to documents is refused where 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*".

All the requested documents contain personal data such as name, surname, telephone number, fax number, signature, email, office number of certain members of the staff of the Commission and GALP. This information clearly constitutes personal data in the meaning of Article 2(a) of Regulation (EC) 45/2001².

According to Article 8(b) of Regulation (EC) 45/2001, personal data shall only be transferred to a recipient in the EU/EEA if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced. Those two conditions are cumulative. In the present case, you have not put forward any arguments to substantiate a need to obtain

² 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 institutions and bodies of the Community and on the free movement of such data (OJ L 8, 12.01.2001, p.1), hereinafter referred to as 'Regulation (EC) 45/2001'.

these personal data. Furthermore, it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

Therefore, personal data have been withheld from the requested documents except the name of members the Commission and their Cabinets and the name of the main representative of the third party, in conformity with the Commission usual practice.

3. MEANS OF REDRESS

In accordance with Article 7(2) of Regulation (EC) 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 Brussels

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

Yours faithfully,

Robert-Jan SMITS

Enclosure: requested documents expunged from information protected under Regulation 1049/2001.

GestDem 2017/7371
List of requested documents

| N° | Doc reference | Exception Art 4 Regulation 1049/2001 | Type of access |
|-----------|-------------------------------|--|-----------------------|
| 1 | Ares(2014)3696072 | Article 4(1)(b) – privacy and integrity Article 4(2) 1st indent– protection of commercial interest, including intellectual property rights. | Partial access |
| 2 | Basis document | Article 4(1)(b) – privacy and integrity Article 4(2) 1st indent– protection of commercial interest, including intellectual property rights. | Partial access |
| 3 | Ares(2015)1622805 | Article 4(1)(b) – privacy and integrity | Partial access |
| 4 | Exchange of Emails 05.02.2015 | Article 4(1)(b) – privacy and integrity | Partial access |
| 5 | Exchange of Emails 12.02.2015 | Article 4(1)(b) – privacy and integrity | Partial access |
| 6 | Ares(2015)3672172 | Article 4(1)(b) – privacy and integrity Article 4(2) 1st indent– protection of commercial interest, including intellectual property rights | Partial access |
| 7 | Basis document | Article 4(1)(b) – privacy and integrity Article 4(2) 1st indent– protection of commercial interest, including intellectual property rights. | Partial access |
| 8 | Ares(2015)4002635 | Article 4(1)(b) – privacy and integrity | Partial access |
| 9 | Ares(2016)7103610 | Article 4(1)(b) – privacy and integrity | Partial access |