



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate C - Transparency, Efficiency & Resources
The Director

Brussels,
SG.C.1/AF

By registered mail with AR

Ms Aisha Down
Emerika Bluma 8 Sarajevo,
Bosnia and Herzegovina

Copy by email:
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6db51940@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2019/5828

Dear Ms Down,

We refer to your e-mail of 15 October 2019 in which you make a request for access to documents, registered on the same day under the above-mentioned reference number.

You request access to, I quote:

‘[...] - all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to all meetings between first vice-president Frans Timmermans and BusinessEurope in 2014 and 2015

- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to all meetings between first vice-president Frans Timmermans and PA Europe in 2014 and 2015

- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the meeting between Frans Timmermans and the World Economic Forum in January 2015.’

On 17 October 2019, the European Commission sent you a clarification request, whereby it informed you that the description given in your application does not enable it to identify concrete documents, which would correspond to your request. Therefore, it asked you to specify your request by providing more information on the documents, which you seek to obtain, such as the topic(s), references, dates of the requested documents, persons or bodies who drafted the documents etc.

By email of 22 October 2019, you replied to the clarification request by providing additional information on your request, including on the names of persons and organisations or entities, in the meetings to which your request for access to documents pertains. However, the clarifications received were not sufficiently precise to enable the Commission to identify the documents to which you request to obtain access.

On 23 October 2019, the European Commission sent you another clarification request, common for all three initial requests submitted by you to the Secretariat-General ¹. It also provided you with the lists of all meetings held between the organisations/entities mentioned in your requests available in the Transparency Register.

Concerning the present request, registered under number GESTDEM 2019/5828, the European Commission asked if you could confirm that you are interested in obtaining access to all documents in relation to all meetings held between the First Vice-President Frans Timmermans and his cabinet members, for the period of 2014 and 2015, and the following organisations : PA Europe, BusinessEurope and the World Economic Forum.

By email of 25 October 2010, you confirmed that you are interested in obtaining access to all documents in relation to the meetings held between the First Vice-President Frans Timmermans and his cabinet members, for the period of 2014 and 2015 and the above-mentioned organisations.

Based on the above, the European Commission has identified the following documents as falling within the scope of your request GESTDEM 2019/5828:

- Invitation letter of 1 July 2015 to the ASG CEO event from BusinessEurope sent to the First Vice-President, reference Ares(2015) 2808561 (hereafter ‘document 1’);
- Letter from European social partner organisations to the First Vice-President and Vice-President Valdis Dombrovskis of 24 April 2015, reference Ares(2015) 1780921 (hereafter ‘document 2’);
- Reply to the letter from the European social partners from the First Vice-President and Vice-President Valdis Dombrovskis of 6 May 2015, reference Ares(2015) 1922812 (hereafter ‘document 3’).

1. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) No 1049/2001

Following our assessment, I hereby inform you that wide partial access is granted to the documents, subject only to the redactions of personal data, in accordance with Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001, for the reasons set out below.

¹ GESTDEM 2019/5828, GESTDEM 2019/5865 and GESTDEM 2019/6002.

1.1. Protection of privacy and the integrity of the individual

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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC² (hereafter ‘Regulation (EU) 2018/1725’).

The documents to which you request access contain personal data, in particular the names, functions, contact details (email addresses, telephone and office numbers) pertaining to staff members of the Commission not holding any senior management positions, as well as to third party individuals who are not considered as public figures acting in their public capacity.

Indeed, Article 3(1) of Regulation (EU) 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.³

Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data.⁴

In its judgment in Case C-28/08 P (*Bavarian Lager*)⁵, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.⁶

Only if the conditions for transfer defined in Regulation (EU) 2018/1725 are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of this regulation, can the transmission of personal data occur.

In your application, you indicate that your address is outside EU/EEA. The public disclosure of the personal data contained in the document(s) requested would therefore

² Official Journal L 205 of 21.11.2018, p. 39.

³ Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](#).

⁴ Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, paragraphs 43-44, [ECLI:EU:T:2018:560](#).

⁵ Judgment of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd*, Case C-28/08 P, EU:C:2010:378, paragraph 59.

⁶ Whereas this judgment specifically related to 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 data, the principles set out therein are also applicable under the new data protection regime established by Regulation (EU) 2018/1725.

constitute processing (transfer) of personal data within the meaning of Chapter V of Regulation (EU) 2018/1725.

According to Article 47(1) of that regulation, and unless the conditions of Article 48 are met, a transfer of personal data to a third country or international organisation may take place only where the Commission has decided pursuant to Article 45(3) of Regulation (EU) 2016/679 or to Article 36(3) of Directive (EU) 2016/680 that the third country, a territory or one or more specified sectors within that third country, or the international organisation in question ensures an adequate level of protection and where the personal data are transferred solely to allow tasks within the competence of the controller to be carried out.

We consider that, with the information available, the fulfilment of these conditions has not been established. Therefore, we are disclosing the documents requested from which these personal data have been redacted.

2. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

Please note that article 4(1)(b) of Regulation (EC) No 1049/2001 does not include the possibility for the exception defined therein to be set aside by an overriding public interest.

3. PARTIAL ACCESS

Please note that partial access is granted to the documents.

4. MEANS OF REDRESS

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the European Commission to review this position.

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

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

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

Yours faithfully,

Tatjana VERRIER

Enclosures: (3)