

EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate B  
SG-B-5  
Transparency

Brussels, **21 OCT. 2013**  
SG.B.5/EK/psc – sg.dsg1.b.5(2013)3521670

Mr Arun Dohle

*By email only:*  
[ask+request-746-9d29a981@asktheeu.org](mailto:ask+request-746-9d29a981@asktheeu.org)

**Subject: Application for access to documents – Gestdem 2013/4466**

Dear Mr Dohle,

I am writing in reference to your e-mail of 16 August 2013, registered on 6 September 2013, by which you make a request for access to documents. I further refer to our holding letter of 27 September 2013.

In your initial request, you asked for access to correspondence between Mr Francois Polge de Combret and the Commission between 1990 and today. You clarified in your e-mail of 16 September 2013 that this request refers to correspondence involving

*“- President*

*- JUST*

*- ELARG*

*Possibly:*

*- EMPL*

*- REGIO*

*But also:*

*French Commissioners/Director Generals“*

We have identified the following documents as falling within the scope of your request:

Correspondence between the President and Mr de Combret:

1. Letter of 22 November 2004 by Mr de Combret to the President of the Commission
2. Reply of 13 January 2005 by the President of the Commission to Mr de Combret
3. Letter of 27 January 2005 by Mr de Combret to the President of the Commission

Correspondence between DG ELARG and Mr de Combret:

4. Letter by Mr de Combret of 09 June 1999
5. Reply by Mr Lamoureux of 09 June 1999
6. Letter by Mr de Combret of 13 August 1999
7. Reply by Mr Van Den Broek of 06 June 1999
8. Reply by President Prodi of 01 October 1999
9. Letter by Mr de Combret of 24 November 1999
10. Letter by Mr de Combret of 25 November 1999
11. Reply by Mr Lamoureux of 07 December 1999
12. Letter by Mr de Combret of 2 March 2000
13. Reply by Mr Landaburu in 2000
14. Reply by Mr Pasquarelli of 08 November 1999

Correspondence between DG JUST and Mr de Combret:

15. Letter from Mr De Combret of 25 April 2005
16. Reply from Mr Frattini of 27 May 2005
17. Issue paper of July 2006 by Mr de Combret

Please note that in its answer of 15 July to your request for access to documents registered under Gestdem 2013/3047, JUST provided you with two further documents which would fall under the scope of this request, but which are already in your possession. These documents are a copy of the invitation to CARE France for the Conference "Challenges in Adoption Procedure in Europe: ensuring the best interests of the child" sent on 7 October 2009 and the reminder of 27 October 2009.

Concerning correspondence with French Commissioners and Directors-general, please note that this potentially covers a large number of people difficult to trace back over a long period of time. To satisfy your request in the quickest possible way, we have looked for documents falling under the scope of your request as of 2009. The outcome of our intensive search is that the Commission is not in the possession of any documents falling under the scope of your request as set out above.

Having examined these documents, I am pleased to announce that documents 1 – 16 can be fully disclosed.

Concerning the document 17, please note that the exchange can be partially disclosed by redacting personal data from the documents. The personal data includes the following : names of persons (children and adults), dates and places of birth, dates and places of personal events (such as abandonment, taking in by an institution, adoption), age of persons, their addresses, profession or role of persons if they would allow to identify the person, illnesses and medical or psychological treatment of children, judicial measures taken concerning a person mentioned in the report, names of persons from the association which has conducted the visits on the grounds (only SERA members remain visible), photos of persons.

The personal data have been deleted pursuant to the exception set out in Article 4(1) (b) of Regulation 1049/2001, according to which *[t]he institutions shall refuse access to a document 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.*

The applicable legislation in this field is Regulation (EC) No 45/2001<sup>1</sup>. The Court of Justice has confirmed that *"where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation 45/2001 become applicable in their entirety, including Articles 8 and 18 thereof"*<sup>2</sup>. Pursuant to Regulation 45/2001, personal data must be processed fairly and lawfully. Any processing must be necessary and proportionate for a specific purpose.

Furthermore, pursuant to Article 8(b) of Regulation 45/2001, the Commission can only transmit personal data to a recipient subject to Directive 95/46/EC 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<sup>3</sup>. Since nothing in your request shows the necessity of having these data transmitted to you, we consider that, in this case, the necessity of disclosing the abovementioned data is not demonstrated.

Consequently, the disclosure of the names of natural persons referred to above has to be refused pursuant to Article 4(1) (b) of Regulation 1049/2001.

If you wish to receive these personal data, we invite you to provide us with arguments demonstrating the necessity for having these personal data transferred to you and the absence of adverse effects to the legitimate interests of the data subjects.

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

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<sup>1</sup> 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 of the free movement of such data, OJ L 8 of 12.1.2001, p1.

<sup>2</sup> Judgment of 29.6.2010 in Case C-28/08 P, *Bavarian Lager*, paragraph 63.

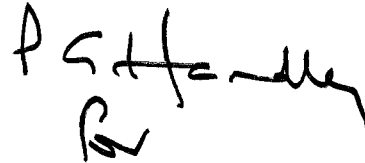
<sup>3</sup> *Bavarian Lager* judgment, paragraph 78.

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  
BERL 5/327  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Szlaszewski', with a stylized flourish below it.

Hubert Szlaszewski  
Director