



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE

Director General

Brussels, 10. 04. 2013
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Per e-mail:
[ask+request-408-
b67e0f1e@asktheeu.org](mailto:ask+request-408-b67e0f1e@asktheeu.org)

Subject: Your request for access to the documents –ref. GESTDEM 2013-1163

Dear Madam,

We refer to your email of 1 March 2013 in which you make a request for access to documents, registered on 1 March 2013 under the above mentioned reference number.

In concrete terms, you are asking access to the correspondence, meeting records or documents from the period from September 2011 till 1 March 2013 concerning the Data Protection Reform exchanged between Vice-President Reding and officials from the US Department of Commerce, the US Ambassador W.E.Kennard, or the US Attorney General E.H.Holder.

Following your request, the following documents that fall within your request were retrieved from the digital registers:

1. E-mail messages exchanged between the Cabinet of VP Reding and officials in the US Embassy to the EU regarding arranging a meeting between VP Reding and Ambassador Kennard (doc.ref ARES (2012)352565 of 26 March 2012);
2. An e-mail message from the US Embassy to request a meeting with VP Reding (doc. Ref.Ares(2012)455941 of 14 April 2012);
3. A letter from Vice-President Reding to the US Ambassador in the EU W.E.Kennard (doc.ref.Ares(2012)1477807 of 11 December 2012).

After having analyzed the list of documents in the light of Regulation (EC) No 1049/2001, I have come to the conclusion that the document mentioned under point 3 can be disclosed.

As regards the documents listed in points 1 and 2 that consist of e-mail messages to organize a meeting between Vice-President Reding and the US Ambassador to the EU Kennard, it should be noted that part of the requested email messages originate from third parties (namely the US embassy to the EU) who are being consulted on such disclosure. Therefore, on this part of your request, we have to extend the time limit with 15 working days in accordance with Article 7(3) of Regulation (EC) No 1049/2001 regarding public access to documents. The new time limit expires on 16/04/2013.

As regards the email message that originates from the Commission, this may be partially disclosed, as they fall under the following exception:

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document can be 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". Indeed, the documents to which you have requested access contain personal data. The applicable legislation in this field is 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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

Therefore, we are disclosing above mentioned document expunged from the personal data of the individuals.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

Should you wish this position to be reconsidered, you should present in writing, within 15 working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the address below. The Secretary-General will inform you of the result of such review within 15 working days from the date of registration of your request. You will either be given access to the document or your request will be rejected, in which case you will be informed of what further action is open to you.

European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 Bruxelles

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

¹ OJ L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, not yet reported

Please note that the granted documents cannot be reproduced or disseminated for commercial purposes without prior consent given by the Commission.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'F. Le Bail'. The signature is written in a cursive style with a horizontal line above the first letter 'F'.

Françoise LE BAIL

Annexes:

1. Part of document ref.ARES (2012)352565 from 26 March 2012
2. Document ref. Ares(2012)1477807 of 11 December 2012