

EXECUTIVE DIRECTOR

Parma, 18 APR 2016
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Vicky Cann
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Belgium

e-mail: vicky@corporateeurope.org

Subject: Reply to your confirmatory application for public access to documents of 24 March 2016

Our ref: PAD 2016/036 CA

Dear Ms Cann,

I refer to your confirmatory application for access to documents submitted by e-mail on 24 March 2016 by means of which you challenged the non-disclosure of your initial request of 02 February 2016 for "*all declarations of interest by Barbara Gallani for her future role as Head of the Communications and External Relations Department at EFSA, alongside all related documents including emails, letters, minutes of meetings which discuss the declaration(s)*" and negatively replied by EFSA with its letter dated 15 March 2016.

We have assessed the arguments put forward in your confirmatory application in the light of Regulation (EC) No 1049/2001 on public access to documents¹ (hereinafter the "*PAD Regulation*") and the Data Protection Regulation (EC) No 45/2001² in the way as was outlined in our initial reply letter of 15 March 2016. In contrast to your initial, unmotivated request for public access of 02 February 2016, your confirmatory request provides an express and legitimate justification for the personal data transfer in the sense of Article 8(b) of the Data Protection Regulation. Taking into account the recent case law of the European Courts³, EFSA comes to the conclusion that the justification in your confirmatory request fulfils the necessity requirement for the personal data transfer referred to in the initial reply letter of 15 March 2016 (see point (1) of that letter – '*Exception regarding the protection of personal data*').

In addition, EFSA made the necessary verifications to ascertain that the disclosure of the staff recruitment Declaration of Interest (DoI) of Ms B. Gallani would not harm any of her legitimate interests as a data subject in the sense of Article 8(b) of the Data Protection Regulation.

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. 43-48, applicable to EFSA.

² Regulation (EC) No 45/2001 of the 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 on the free movement of such data the envisaged DoI and other documents. , OJ L 8, 12.1.2001, p.1-22.

³ I.e. case C-615/13P , Judgement of the Court (Second Chamber) of 16 July 2015, ClientEarth and Pesticide Action Europe (PAN Europe) v. European Food Safety Authority (EFSA), ECLI:EU:C:2015:489

Following this assessment, we are pleased to provide you herewith the Declaration of Interest of Ms Gallani submitted as part of her recruitment application for EFSA. Please note that in the version disclosed to you, the private contact details as well as the signature have been masked as personal data in accordance with the exception to public disclosure in Article 4(1)(b) of the PAD Regulation.

EFSA has also reconsidered the partial disclosure of the Reasoned Opinion on Ms Gallani's recruitment, provided with our initial reply of 15 March 2016. The decision is maintained not to disclose the Reasoned Opinion document

because it is a key documentary of the EFSA recruitment process which as a whole is covered by confidentiality. However we are pleased to complement this initial release with more information on the conclusions and the mitigating measures imposed in the Reasoned Opinion on the DoI assessment. The Reasoned Opinion refers to the fact that potential conflicts of interest are considered to be sufficiently addressed by the standard practices and policies applied at EFSA, such as for instance the screening of the Annual Declarations of Interest of EFSA staff, the authorisation process for outside activities of EFSA staff members, the formal declarations staff is obliged to make in case of involvement in expert and staff selection procedures or in procurement and grant award procedures. The reasoned Opinion thus concludes that these standard policies and practices applied are considered adequate in view of the limitations of the job function of Ms Gallani which relates to the management of the communication, networking and risk communication activities without exerting any control on the content of EFSA's scientific outputs.

Additionally, to address any perception of a conflict of interest, the Reasoned Opinion imposes four mitigating measures on Ms Gallani, namely:

- a. To abstain for at least 1 year after being recruited from bilateral interactions of a professional nature with FDF, FDE, or SALSA employees or agents at all levels ;
- b. To abstain from the review or consideration of any file triggered by the British food or drink industry or that would have a particularly significant impact on the relevant industry of the UK ;
- c. To highlight any concrete and actual conflict of interest promptly to the EFSA Executive Director ;
- d. To follow a dedicated training on ethics and integrity under the Staff Regulations.

We hope you may find the above further information and the enclosed DoI document useful.

I should inform you on the fact that you may challenge the present decision on partial disclosure before the Court of Justice of the European Union by virtue of Article 263 of the Treaty on the Functioning of the European Union or make a complaint to the European Ombudsman.

Yours sincerely,



Bernhard Uff

Encl. 1

Cc: D.Detken, (EFSA)