



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 May 2013

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API 43**

NOTE

from :	General Secretariat of the Council
to :	Working Party on Information
Subject :	Public access to documents
	- Confirmatory application made by Ms Rachel TANSEY (No 10/c/01/13)

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 26 March 2013 and registered on 26 March 2013([Annex 1](#))
- reply from the General Secretariat of the Council dated 19 April 2013 ([Annex 2](#))
- confirmatory application dated 29 April 2013 and registered on the same day ([Annex 3](#))

[E-mail message sent on 26 March 2013 - 16:29]

Dear European Council,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting all documentation relating to decisions made, under Article 16 of the Staff Regulations, concerning Ms. Gayle Kimberley.

Specifically, I would like to receive a note of all Ms. Kimberley's job titles whilst at the European Council's legal service between 2004 and 2011, including dates held, copies of any application(s) that Ms Kimberley made under Article 16 of the Staff Regulations to undertake a new professional activity, and all correspondence, including emails, relating to the authorisation of the role or roles.

Yours faithfully,

Rachel Tansey

DELETED



**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

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Brussels, 19 April 2013

Ms Rachel Tansey

e-mail: DELETED

Ref. 13/0549-csm/jj

Dear Ms Tansey,

We have registered your request of 26 March 2013 for access to documents of the Council of the European Union. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents¹ (hereafter the "Regulation") and specific provisions of the Council's Rules of Procedure² and has come to the following conclusion:

The documents and information you have requested contain personal data. Disclosure of this information would undermine the protection of privacy and the integrity of the individual in question, in particular in accordance with Community legislation regarding the protection of personal data. Accordingly, pursuant to Article 4(1)(b) of the Regulation (protection of privacy and the integrity of the individual), the General Secretariat is unable to accede to your request.

¹ Official Journal L 145, 31.5.2001, p. 43.

² Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

Statutory remedy notice

Pursuant to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply¹.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

¹ Should you decide to do so, then please indicate whether you permit the Council to make your confirmatory application fully public in the Council's Register of documents. If you do not reply or reply in the negative, then your application will be dealt with confidentially. Your reply will in no way prejudice your rights under Regulation (EC) No 1049/2001.

[Confirmatory application - sent by e-mail on 29 April 2013 - 12:59]

Subject : Access to information request - Article 16 Staff Regulations - Gayle Kimberley

Dear SECRETARIAT DGF Access,

I hereby submit a confirmatory application for my request of 26 March 2013, and request the Council to review its decision to reject my 26 March request.

You denied access to the requested documents on the following grounds:

"The documents and information you have requested contain personal data. Disclosure of this information would undermine the protection of privacy and the integrity of the individual in question, in particular in accordance with Community legislation regarding the protection of personal data. Accordingly, pursuant to Article 4(1)(b) of the Regulation (protection of privacy and the integrity of the individual), the General Secretariat is unable to accede to your request."

I was very surprised by this response of the European Council invoking protection of personal data, as there have been many successful access to documents requests regarding the screening for potential conflicts of interest when employing new officials or when officials apply for permission for post-employment activities, in accordance with Article 11, 11a and Article 16 of the Staff regulations, respectively. Cases where relevant documents were made available, if necessary with sensitive personal data having been expunged. This would be in full accordance with the intention of my request. Recent examples where this practice has been applied are requests 2012/2311, 2012/2690 and 2012/5259 (see post script).

As a result, I do not understand why, in this particular case, the documents cannot be released to me, at least in part. Various Commission DGs have not considered that there was a problem to disclose the equivalent documents, and as the Council is bound by the same laws - and exemptions to those laws - I see no reason why the Council's approach should be more restrictive.

I should also point out that I am not requesting private data such as personal email addresses or telephone numbers, but documents which concern Ms Kimberley in her professional capacity as an official employed by the European Council. I therefore would like to make a confirmatory application to the European Council that this response is re-evaluated.

I look forward to hearing from you and I hope to receive the documents requested as soon as possible.

Yours sincerely,

Rachel Tansey