

25 December 2015

Secretary General Welle
European Parliament
60 rue Wiertz
B-1047 Brussels
Belgium

Subject: Confirmatory Application Public Access to Documents Request A (2015)14430-35-36-37

Dear Secretary General Welle,

I am submitting this confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 to request the European Parliament reconsider its refusal of my public access to documents requests for documents pertaining to MEP allowances.

Background

Article 15 of the Treaty on the Functioning of the European Union stipulates that EU institutions, which includes the Parliament, shall conduct their work as openly as possible in order to promote good governance and ensure the participation of civil society and guarantees the right of access to documents of the Union's institutions. The right of access to documents of the three main EU institutions, including that of the Parliament, is enshrined in Article 42 of the European Charter of Fundamental Rights. Regulation (EC) No 1049/2001 lays down the rules pertaining to these rights of access to documents, including the limited exceptions to granting access by the institutions.

The misuse of MEP allowances has been the subject of alleged misuse, fraudulent activities, OLAF investigations¹, and criminal prosecutions². Some of these cases only came to light, not because of Parliamentary rules or control mechanisms, but because of investigations by journalists³ or ex-employees⁴. These cases of misuse of MEP allowances have concerned staff allowances, general expenditure and travel allowances. MEPs themselves have expressed concerns about the lack of transparency, and the way in which these allowances are managed by Parliament. Most recently this was evidenced by the controversy concerning the failed attempt by some MEPs to bring greater scrutiny to the general expenditure allowance (GEA) in this year's discharge procedure.⁵ As to the lack of transparency or proper financial control and oversight of the GEA, MEPs have publicly expressed the same concerns as far back as 2008.⁶

¹ <https://euobserver.com/institutional/131149>

² <http://www.bbc.com/news/uk-politics-33508850>

³ <http://www.telegraph.co.uk/news/politics/6545334/Disgraced-ex-Ukip-MEP-Tom-Wise-jailed-for-two-years-for-expenses-fraud.html>

⁴ <http://www.bbc.com/news/uk-england-birmingham-17137739>

⁵ <https://euobserver.com/institutional/128557>

⁶ <http://www.theguardian.com/commentisfree/2008/jun/09/europe.euro>

The mission of the Transparency International EU Office (TI EU) is to prevent and address corruption and promote integrity, transparency and accountability in the EU institutions and in EU internal and external policies, programmes and legislation. In 2014 TI EU published a comprehensive study of the EU's integrity system. This EU Integrity Study⁷ looked at corruption risks in the EU institutions, examining the rules and practices designed to prevent corruption occurring internally in these institutions, as well as how each institution is fostering public sector integrity. Of all the institutions analysed, the European Parliament was the only one who refused to cooperate with our team of researchers.⁸ Documents relating to how EU taxpayer funds are being used by MEPs and how the Parliament is, or is not, regulating and monitoring the use of these funds would allow civil society organisations, such as TI EU, and citizens to scrutinise these expenditures and exercise democratic accountability in order to promote integrity and good governance.

Therefore, on behalf of the Transparency International EU Office (TI EU), I submitted 4 separate and distinct requests for documents pertaining to MEP travel expenses, subsistence allowance, general expenditure allowance, and assistant from personal staff. The European Parliament responded with one letter of blanket refusal covering all my document requests.

Assessment of the Parliament's Refusal

The Parliament's grounds for refusal has relied primarily on Article 4(1) and Article 4(2) of Regulation 1049/2001. The access to document requests were purposefully filed separately corresponding to the 4 categories of allowances. This was to avoid having the Parliament's assessment be unclear as to what refusal justification(s) under Regulation 1049/2001 were linked specifically to which allowances, documents, and entities. Regrettably, this is precisely what has occurred and there is a general lack of clarity in your assessment of my application. The refusal letter makes it is near impossible to align these Article 4 exceptions to specific allowances, documents, legal entities, commercial interests, or individuals that may be concerned. Further, the Parliament has failed to demonstrate that all requested documents pertaining to these allowances would both contain personal and/or commercial data and the transfer of that data would undermine these individuals' privacy and integrity.

Request for Reconsideration

I do not accept the Parliament's reasoning behind a blanket refusal, though I appreciate that my request was broad enough to possibly encompass information, such as the registration number of a Member's vehicle or his/her flight itinerary to reach a meeting venue, that is not inherently relevant to the purpose of the document requests. Additionally, I believe partial access could be granted for many of the documents requested, without resulting in unnecessary administrative burden. All documents that I am requesting be provided electronically.

I will address each of allowances separately for my request for the Parliament's reconsideration of my document requests.

⁷ http://www.transparencyinternational.eu/focus_areas/eu-integrity-study/

⁸ <http://www.transparencyinternational.eu/2014/04/why-the-european-parliament-did-not-cooperate-with-transparency-international/>

Travel Allowance:

I will both clarify and simplify my request for documents pertaining to MEPs' travel allowances. I do not want my request to be interpreted as requesting every invoice for flights and trains or fuel purchase receipts. Therefore I would like to request only the total amount that each Member has both claimed and been reimbursed since the beginning of the current legislative mandate.

Subsistence Allowance:

I believe that some documents could be provided that do not fall under the exceptions outlined in Article 4 of Regulation 1049/2001. For instance, the Parliament could provide me the number of times a specific MEP had been paid the allowance, without any corresponding personal data that would evoke an Article 4 exception. There is a public interest in allowing citizens and civil society to evaluate their elected representatives' parliamentary activities, such as with attendance rates. The Parliament also sees the benefit in making similar information available on their website, such as with committee minutes attendance registers or plenary roll call vote figures. However, this information is incomplete as it does not account for the total number of times a MEP signs a register (e.g. central register, political group register, official mission register, committee register, plenary register, etc.) for receiving the subsistence allowance. Information on which MEPs received a per diem and on which date has previously been made available ahead of the 2009 European election as well. Therefore, I request the Parliament provide me with this information concerning the subsistence allowance.

Expenses for Assistance from Personal Staff:

To clarify, I am not interested in individual contracts of local assistants, accredited assistants or interns as they are, for the most part, standardised. Nor am I interested in documents related to personal details that include staff bank accounts, or personal information stored on Streamline.

Therefore, I believe that some documents could be provided that do not fall under the exceptions outlined in Article 4 of Regulation 1049/2001.

First, I specifically requested "a detailed list of the names of all current and past service providers employed by Members" in this mandate. The Parliament has already acknowledged that greater transparency of who MEPs employ with taxpayer money is of public interest. This is why they currently list local assistants and accredited assistants on the Parliament's website. There is an overriding public interest in allowing the public and civil society to scrutinise who MEPs are employing with taxpayer money and if that spending conforms to the rules in place. This is especially true in the case of service providers. As the Parliament itself admits, it has no means to, for example, verify if MEPs are hiring relatives as service providers.⁹ This document request is also partly in line with Bureau Notice No 2/2015, which will see the publications of service providers beginning 1 January 2016. Therefore I ask you to reconsider your refusal and provide documents

⁹ <https://polcms.secure.europarl.europa.eu/cmsdata/upload/eddb717e-4201-4c53-9713-6e267e788072/Answers%20EP%20SG%20to%20questionnaire%202013%20EP%20discharge%20delivered%20to%20CONT%20on%2020....pdf> p 28

detailing the names of the service providers and the services provided to individual MEPs, as already called for in the Parliament's own 2013 discharge report.¹⁰

I also contend that the Parliament could provide partial access to information related to how MEPs use secretarial allowances that would not evoke any Article 4 exceptions nor constitute an excessive administrative burden. I would like the Parliament to explain, for instance, why it could not grant partial access to individual MEPs' annual *récapitulatif budgétaire par contract* (produced by the *Service des indemnité parlementaire*) with the names of the local, accredited assistants and interns redacted.

I also request that Parliament provide detailed reasoning why it could not provide, for instance, the individual accredited assistants' declarations concerning conflicts of interest and any accompanying anonymised documents related to the monitoring of these declarations. On the conflict of interest declarations I also request if any conflict of interest has ever occurred or if any accredited assistant has had to cease an activity following the submission of the declaration. It is important that the public and civil society be able to monitor potential conflicts of interest of both elected representatives as well as public servants. The Parliament recognises this as it already proactively publishes MEPs' declarations of financial interest on their website.

General Expenditure Allowance:

The General Expenditure Allowance (GEA) allowance seems to be the most controversial¹¹ in regards to transparency, accountability and integrity of the European Parliament.

First, I recognise that the unused appropriations is made available in the context of the annual discharge and the most recent information is related to 2013. I will therefore submit a similar request at the conclusion of the next discharge procedure for 2014.

The GEA of EUR 4 320 may be directly deposited monthly into the account of the MEPs' choosing, which could include a personal bank account. To clarify, my document request should not be interpreted to pertain to personal information or bank account details, nor any document related to a MEP's salary. Therefore the exceptions to personal data do not apply. Rather, it requests documents related to how 751 MEPs spend EUR 38,931,840 per year directly related to their legislative mandate. I request, therefore, that the Parliament provide detailed reasoning why the exceptions pertaining to personal data, or how disclosure would undermine the protection of commercial interest of a natural or legal person specifically relate to this GEA request.

There is an overriding public interest to allow access to GEA documents to 1) allow citizens and civil society the ability to scrutinize public spending of taxpayer money by MEPs and, more importantly, 2) to allow the public and civil society to assess if the Parliament has adequate control mechanisms in place on how MEPs spend nearly 40 million EUR per year in office-related expenditure.

¹⁰ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0121+0+DOC+XML+V0//EN&language=EN>

¹¹ <https://euobserver.com/institutional/130683>

It should be noted that the Parliament itself admits it is in its own best interest to be transparent in regards to the GEA. In the Parliament's 2013 discharge resolution¹², when recognising that the negative public image of Parliament could be related to the financial arrangements of Members, it states:

"...is convinced therefore that structural improvements, for example full transparency and the accounting of the general expenditure allowance, are needed to improve trust and support for Parliament;"

I therefore ask for the Parliament to reconsider my access to document request related the General Expenditure Allowance.

Conclusion:

I request that the Parliament reconsider my four separate access to documents requests. I contend that the documents I requested above do not evoke 1049/2001 exceptions nor constitute an excessive administrative burden for the Parliament. If, however, the Parliament maintains its position of a blanket refusal I request that it provides detailed reasoning for its decision and explain how and why disclosure or information of which I requested might pose a foreseeable harm to one of the interests protected by the exceptions. This harm should be specifically linked to an allowance, document and entity. The Parliament should also specifically outline its reasoning on why it considers this harm to be substantial enough to override the public interest of transparency and accountability of the Parliament by citizens and civil society.

I thank you for your time in this matter.

Respectfully,

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¹² <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0121+0+DOC+XML+V0//EN&language=EN>