JUDGMENT OF THE GENERAL COURT (Fifth Chamber, Extended Composition)

25 September 2018 (*)

(Access to documents — Regulation (EC) No 1049/2001 — European Parliament — Expenditure by Members of the Parliament of their allowances — Refusal to grant access — Non-existent documents — Personal data — Regulation (EC) No 45/2001 — Need to transfer the data — Specific and individual examination — Partial access — Excessive administrative burden — Obligation to state reasons)

In Cases T-639/15 to T-666/15 and T-94/16

Maria Psara, residing in Athens (Greece), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-639/15,

Tina Kristan, residing in Ljubljana (Slovenia), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-640/15,

Tanja Malle, residing in Vienna (Austria), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-641/15,

Wojciech Cieśla, residing in Warsaw (Poland), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-642/15,

Staffan Dahllof, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-643/15,

Delphine Reuter, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-644/15,

České centrum pro investigativní žurnalistiku o.p.s., established in Prague (Czech Republic), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Cases T-645/15 and T-654/15,

Harry Karanikas, residing in Chalándri (Greece), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-646/15,

Crina Boros, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Cases T-647/15 and T-657/15,

Baltijas pētnieciskās žurnālistikas centrs Re:Baltica, established in Riga (Latvia), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Cases T-648/15, T-663/15 and T-665/15,

Balazs Toth, residing in Budapest (Hungary), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-649/15,

Minna Knus-Galán, residing in Helsinki (Finland), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-650/15,

Atanas Tchobanov, residing at Plessis-Robinson (France), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-651/15,

Dirk Liedtke, residing in Hamburg (Germany), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-652/15,

Nils Mulvad, residing in Risskov (Denmark), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-653/15,

Hugo van der Parre, residing in Huizen (Netherlands) represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-655/15,

Guia Baggi, residing in Florence (Italy), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-656/15,

Marcos García Rey, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-658/15,

Mark Lee Hunter, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-659/15,

Kristof Clerix, residing in Brussels, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-660/15,

Rui Araujo, residing in Lisbon (Portugal), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-661/15,

Anuška Delić, residing in Ljubljana, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-662/15,

Jacob Borg, residing in St Julian's (Malta), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-664/15,

Matilda Bačelić, residing in Zagreb (Croatia), represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-666/15,

Gavin Sheridan, represented by N. Pirc Musar and R. Lemut Strle, lawyers,

applicant in Case T-94/16,

v

European Parliament, represented by N. Görlitz, C. Burgos and M. Windisch, acting as Agents,

defendant,

APPLICATIONS on the basis of Article 263 TFEU seeking annulment of Decisions A(2015) 8324 C, A(2015) 8463 C, A(2015) 8627 C, A(2015) 8682 C, A(2015) 8594 C, A(2015) 8551 C, A(2015) 8732 C, A(2015) 8681 C, A(2015) 8334 C, A(2015) 8327 C and A(2015) 8344 C of 14 September 2015, A(2015) 8656 C, A(2015) 8678 C, A(2015) 8361 C, A(2015) 8663 C, A(2015) 8360 C, A(2015) 8486 C and A(2015) 8305 C of 15 September 2015, A(2015) 8602 C, A(2015) 8554 C, A(2015) 8490 C, A(2015) 8659 C, A(2015) 8547 C, A(2015) 8552 C, A(2015) 8553 C, A(2015) 8661 C, A(2015) 8684 C and A(2015) 8672 C of 16 September 2015, and A(2015) 13844 C of 14 January 2016 of the European Parliament, by which the Parliament rejected, on the basis of 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 2001 L 145, p. 43), the applicants' confirmatory applications for access to Parliament documents containing information on the allowances of its members,

THE GENERAL COURT (Fifth Chamber, Extended Composition),

composed of D. Gratsias, President, I. Labucka (Rapporteur), A. Dittrich, I. Ulloa Rubio and P.G. Xuereb, Judges,

Registrar: S. Spyropoulos, Administrator,

having regard to the written part of the procedure and further to the hearing on 19 October 2017,

gives the following

Judgment

1 The present actions concern applications for annulment of Decisions A(2015) 8324 C, A(2015) 8463 C, A(2015) 8627 C, A(2015) 8682 C, A(2015) 8594 C, A(2015) 8551 C, A(2015) 8732 C, A(2015) 8681 C, A(2015) 8334 C, A(2015) 8327 C and A(2015) 8344 C of 14 September 2015, A(2015) 8656 C, A(2015) 8678 C, A(2015) 8361 C, A(2015) 8663 C, A(2015) 8360 C, A(2015) 8486 C and A(2015) 8305 C of 15 September 2015, A(2015) 8602 C, A(2015) 8554 C, A(2015) 8490 C, A(2015) 8659 C, A(2015) 8547 C, A(2015) 8552 C, A(2015) 8553 C, A(2015) 8661 C, A(2015) 8684 C and A(2015) 8672 C of 16 September 2015, and A(2015) 13844 C of 14 January 2016 of the European Parliament, by which the Parliament rejected, on the basis of 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 2001 L 145, p. 43), the confirmatory applications made by the applicants, Ms Maria Psara, Ms Tina Kristan, Ms Tanja Malle, Mr Wojciech Cieśla, Mr Staffan Dahllof, Ms Delphine Reuter, České centrum pro investigativní žurnalistiku o.p.s., Mr Harry Karanikas, Ms Crina Boros, Baltijas pētnieciskās žurnālistikas centrs Re:Baltica, Mr Balazs Toth, Ms Minna Knus-Galán, Mr Atanas Tchobanov, Mr Dirk Liedtke, Mr Nils Mulvad, Mr Hugo van der Parre, Ms Guia Baggi, Mr Marcos García Rey, Mr Mark Lee Hunter, Mr Kristof Clerix, Mr Rui Araujo, Ms Anuška Delić, Mr Jacob Borg, Ms MatildaBačelić and Mr Gavin Sheridan, for access to Parliament documents containing information on the allowances of its members ('the contested decisions').

Background to the dispute

2 In July 2015, in Cases T-639/15 to T-666/15, and in November 2015, in Case T-94/16, each applicant submitted to the Parliament an application for access to documents on the basis of Regulation No 1049/2001.

3 Those applications related to 'copies of records, reports and other relevant documents showing details regarding how and when […] MEPs' from each Member State 'spent', during various periods between June 2011 and July 2015, 'their allowances (travel expenses, subsistence allowance and general expenditure allowance)', documents showing 'money allocated to them for staffing arrangements', and the 'records of MEPs' bank accounts which [were] used specifically for general allowance payments' ('the documents requested').

4 The applications concerned MEPs from Cyprus in Case T-639/15, Slovenia in Cases T-640/15 and T-662/15, Austria in Case T-641/15, Poland in Case T-642/15, Sweden in Case T-643/15, Luxembourg in Case T-644/15, Slovakia in Case T-645/15, Greece in Case T-646/15, the United Kingdom of Great Britain and Northern Ireland in Case T-647/15, Lithuania in Case T-648/15, Hungary in Case T-649/15, Finland in Case T-650/15, Bulgaria in Case T-651/15, Germany in Case T-652/15, Denmark in Case T-653/15, the Czech Republic in Case T-654/15, the Netherlands in Case T-655/15, Italy in Case T-656/15, Romania in Case T-657/15, Spain in Case T-658/15, France in Case T-659/15, Belgium in Case T-660/15, Portugal in Case T-661/15, Estonia in Case T-663/15, Malta in Case T-664/15, Latvia in Case T-665/15, Croatia in Case T-666/15, and Ireland in Case T-94/16.

5 By letters of 20 July 2015 in Cases T-639/15 to T-666/15 and 25 November 2015 in Case T-94/16, the Secretary-General of the Parliament rejected the applicants' applications for access to documents, on the one hand, relying on the protection of personal data based on the exception provided for by Article 4(1)(b) of Regulation No 1049/2001, and on the other, stating that the Parliament does not hold MEPs' bank account records.

6 By correspondence dated in August 2015 in Cases T-639/15 to T-666/15 and December 2015 in Case T-94/16, each applicant lodged a confirmatory application with the Parliament for access to the requested documents.

7 By the contested decisions, the Parliament rejected those requests, on the one hand, stating that it did not hold some of the documents requested and, on the other, as to the remainder, relying on the dual basis of the exception laid down in Article 4(1)(b) of Regulation No 1049/2001, read in conjunction with Article 8(b) of 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 data (OJ 2001 L 8, p. 1), and the excessive administrative burden involved in the handling of these requests.

Procedure and forms of order sought

8 By applications lodged at the Court Registry on 13 November 2015 in Cases T-639/15 to T-666/15, and on 1 March 2016 in Case T-94/16, the applicants brought the present actions.

9 When it lodged its defence in Cases T-639/15 to T-666/15 and T-94/16, the Parliament also requested the General Court to join Cases T-639/15 to T-666/15, and then Cases T-639/15 to T-666/15 and T-94/16.

10 The applicants in Cases T-639/15 to T-666/15 informed the General Court that they had no objection to Cases T-639/15 to T-666/15 being joined, provided, however, that Case T-662/15 was designated the lead case.

11 On 17 March 2016, the applicants in Cases T-643/15, T-644/15, T-647/15, T-657/15 to T-659/15 and T-94/16 requested that, if the cases were joined, certain information in their applications should be treated as confidential vis-à-vis the public and the applicants in the other cases.

12 On the same date, in accordance with their requests, the applicants in Cases T-643/15, T-644/15, T-647/15, T-657/15 to T-659/15 and T-94/16 lodged a non-confidential version of their applications.

13 On 20 June 2016, the applicant in Case T-94/16 informed the General Court that he had no objection to Cases T-639/15 to T-666/15 and T-94/16 being joined.

14 By orders of 24 May and 20 July 2016, the President of the Fourth Chamber of the Court joined Cases T-639/15 to T-666/15 and T-94/16 for the purpose of the written part of the procedure and granted the requests for confidential treatment lodged by the applicants in Cases T-643/15, T-644/15, T-647/15, T-657/15 to T-659/15 and T-94/16.

15 The composition of the Chambers of the Court having been altered, the Judge-Rapporteur was attached to the Fifth Chamber, to which this case has therefore been assigned.

16 On a proposal from the Judge-Rapporteur, the General Court (Fifth Chamber, Extended Composition) decided to open the oral part of the proceedings in the present cases and to join them for the purposes of that oral part.

17 The parties presented oral argument and replied to the Court's oral questions at the hearing on 19 October 2017.

18 The applicants claim that the Court should:

– annul the contested decisions;

– order the Parliament to pay the costs.

19 The Parliament contends that the Court should:

– dismiss the applications as unfounded;

– order the applicants to pay the costs.

Law

20 Pursuant to Article 68 of the Rules of Procedure of the General Court, the present cases are joined for the purposes of the decision closing the proceedings.

21 In support of their applications, the applicants put forward five pleas in law.

22 The first two pleas allege infringements of the combined provisions of Article 4(1)(b) of Regulation No 1049/2001 and Article 8(b) of Regulation No 45/2001, in that the documents requested do not contain personal data and that, in any event, the need for their transfer and the absence of any risk of prejudice to the legitimate interests of the persons concerned has been demonstrated.

23 The third plea alleges infringement of the general obligation to undertake a specific and individual examination of each of the documents requested, under the combined provisions of Articles 2, 4 and 6(3) of Regulation No 1049/2001, and the illegality of a refusal of access based on an excessive administrative burden.

24 The fourth plea alleges infringement of Article 4(6) of Regulation No 1049/2001, in that even partial access to the documents requested was denied.

25 The fifth and final plea alleges infringement of the obligation to state reasons laid down in Articles 7(1) and 8(1) of Regulation No 1049/2001.

26 In that regard, it must be borne in mind that, as is apparent from Article 1 of Regulation No 1049/2001, read, in particular, in the light of recital 4 of that regulation, that article seeks to give the fullest possible effect to the right of public access to documents held by the institutions (judgment of 1 February

2007, *Sison* v *Council*, C-266/05 P, EU:C:2007:75, paragraph 61) and that, in the terms of recital 11 of Regulation No 1049/2001, 'in principle, all documents of the institutions should be accessible to the public'.

27 Thus, the right of public access enshrined in Regulation No 1049/2001 concerns only those institution documents which the institutions effectively hold, in that that right cannot extend to documents which are not in the possession of the institutions or which do not exist (see, to that effect, judgment of 2 October 2014, *Strack* v *Commission*, C-127/13 P, EU:C:2014:2250, paragraphs 38 and 46).

28 In the present case, the documents requested by the applicants include not only documents relating to the daily allowances, travel allowances and parliamentary assistance allowances of MEPs, but also documents detailing how and when the MEPs of each Member State spent, at various times, their general expenditure allowances and the records of MEPs' bank accounts earmarked specifically for the use of the general expenditure allowance.

29 However, as regards documents detailing how and when the MEPs of each Member State spent, at various times, their general expenditure allowances, it is not in dispute that, under Articles 25 and 26 of the Decision of the Bureau of the European Parliament of 19 May and 9 July 2008 concerning implementing measures for the Statute of Members of the European Parliament (OJ 2009 C 159, p. 1), MEPs are to receive, on a monthly basis, a flat-rate allowance in, furthermore, an amount known to the public, following a single application submitted at the start of their mandate.

30 It follows therefrom that, having regard to the flat-rated nature of the general expenditure allowance, Parliament has no document detailing, physically or in time, the use by its members of those allowances.

31 The Parliament was therefore correct to state, in the contested decisions and in the legal basis of Article 25 of the decision of the Bureau of the Parliament referred to in paragraph 28 above, that it did not have any data on the actual expenditure incurred by MEPs in respect of the general expenditure allowance and that it was therefore not able to disclose the documents requested in that connection.

32 As regards records of MEPs' bank accounts earmarked specifically for the use of general expenditure allowances, the Parliament explained in the contested decisions that it was not in possession of such documents.

33 In accordance with the presumption of legality attaching to EU acts, the non-existence of a document to which access has been requested is presumed when a statement to that effect is made by the institution concerned. That is, however, a simple presumption which the person requesting access may rebut in any way by relevant and consistent evidence (see, by analogy, judgment of 25 June 2002, *British American Tobacco (Investments)* v *Commission*, T-311/00, EU:T:2002:167, paragraph 35).

34 In the present case, however, the applicants have not put forward any evidence capable of calling into question the non-existence of the documents in question. The applicants have merely contended that they found it difficult to believe that the Parliament did not have such documents, given that it had stated that its supervisory mechanisms for the use of its members' allowances were sufficient. However, that statement does not in any way indicate that Parliament was in possession of records of its members' bank accounts earmarked specifically for the use of the general expenditure allowance.

35 Accordingly, the Parliament, in the contested decisions, rightly rejected the applicants' claims concerning documents relating to the expenditure of the general expenditure allowance and the records of its members' bank accounts earmarked specifically for the use of those allowances.

36 The applicants' arguments cannot call that finding into question.

37 It must be stated that, in their written pleadings, the applicants merely emphasise that MEPs undoubtedly receive a general expenditure allowance to cover expenses including the rental of a constituency office and telephone invoices, computer and everyday consumable products, which cannot be disputed.

38 The fact remains that it is common ground that those items of expenditure are paid as a lump sum, and not on presentation of receipts for the expenditure incurred, which cannot be called into question by the applicants' doubts as to the fact that the Parliament does not have the documents requested in that connection, since they have not even sought to rely on any rule providing otherwise.

39 By their arguments, it is clear that the applicants are not so much challenging the legality of the contested decisions as, in essence, denouncing shortcomings and inefficiencies in the existing control mechanisms, which it is not for the Court to examine in the present proceedings.

40 Accordingly, it is necessary at the outset to reject all the pleas in law as being ineffective in so far as they concern documents relating to expenditure of the general expenditure allowance and the records of MEPs' bank accounts earmarked specifically for the use of those allowances and to restrict the examination by the General Court of the pleas in law solely to the requests for access by the applicants concerning daily allowances, travel allowances and parliamentary assistance allowances.

The first plea in law, alleging infringement of the combined provisions of Article 4(1)(b) of Regulation No 1049/2001 and Article 8(b) of Regulation No 45/2001 in that the latter provision is not applicable in the present case

41 By the first plea in law, the applicants allege an infringement of the combined provisions of Article 4(1)(b) of Regulation No 1049/2001 and Article 8(b) of Regulation No 45/2001, of which provisions, furthermore, in essence, they dispute the legality. That plea thus consists of two parts.

42 In the context of the first part, the applicants claim that the contested decisions are vitiated by illegality in that, in essence, Regulation No 45/2001 is not applicable in the present case, the information in question not falling within the MEPs' private sphere, but their public sphere, since the documents requested relate to the performance of their duties as elected representatives.

43 In other words, the applicants argue that the disclosure of the documents requested would not undermine the protection of privacy and the integrity of the individual, as defined in Article 4(1)(b) of Regulation No 1049/2001, in that, even if they contain personal data, those data do not relate to MEPs' privacy.

44 In that regard, it must be recalled that, under Article 4(1)(b) of Regulation No 1049/2001, the institutions must refuse access to a document where disclosure would undermine the protection of privacy and the integrity of the individual, which provision must be implemented in accordance with EU law on the protection of personal data.

45 It is clear from that legislation, in particular from Article 2(a) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31), and Article 2(a) of Regulation No 45/2001, that the term 'personal data' means any information relating to an identified or identifiable natural person.

46 In the present case, it is clear that all the documents requested contain information concerning identified natural persons.

47 That is the case of the documents held by the Parliament relating to travel costs and daily allowances, which necessarily identify every MEP concerned, if only for the purposes of payment of those allowances.

48 The same is true of the documents held by the Parliament relating to parliamentary assistance expenses, which necessarily identify every MEP concerned and the respective beneficiaries of those allowances, also if only for the purposes of payment of those allowances.

49 The applicants' arguments cannot call that assessment into question.

50 Firstly, the distinction, advocated by the applicants, of the data concerned according to whether they are in the private or the public sphere is clearly a confusion between what is meant by personal data and what is

regarded as relating to private life, while the concepts of personal data, within the meaning of Article 2(a) of Regulation No 45/2001, and of data relating to private life are not to be confused (judgment of 16 July 2015, *ClientEarth and PAN Europe* v *EFSA*, C-615/13 P, EU:C:2015:489, paragraph 32).

51 Next, nor can the question of whether the risk of harm to MEPs' legitimate interests does exist alter the classification of the data at issue as personal data, since that question falls within the examination of the second part of the second plea, which will be addressed in paragraph 96 below.

52 Finally, the fact that data concerning the persons in question are closely linked to public data on those persons, inter alia as they are listed on the Parliament's internet site, and are, in particular, MEPs' names does not mean at all that those data can no longer be characterised as personal data, within the meaning of Article 2(a) of Regulation No 45/2001 (see, to that effect, judgment of 16 July 2015, *ClientEarth and PAN Europe* v *EFSA*, C-615/13 P, EU:C:2015:489, paragraph 31).

53 In other words, the classification of the data at issue as personal data cannot be ruled out merely because those data are related to other data which are public, which is the case irrespective of whether disclosure of those data would undermine the legitimate interests of the persons concerned.

54 In the context of the second part of the first plea in law, the applicants allege, in essence, the illegality of Article 8(b) of Regulation No 45/2001 in the light of Article 7(f) of Directive 95/46.

55 According to the applicants, the precondition that the necessity for the transfer of the data requested be demonstrated, pursuant to Article 8(b) of Regulation No 45/2001, irrespective of the legitimacy of the interests of the person concerned, strengthens the protection of personal data contrary to Article 7(f) of Directive 95/46.

56 Without there being any need to assess its admissibility, which the Parliament disputes, the applicants' argument must be rejected.

57 Indeed, the legality of Article 8(b) of Regulation No 45/2001 cannot be assessed against the yardstick of Article 7(f) of Directive 95/46, since those two texts, which, moreover, are both of secondary legislation, have different spheres of application and thus neither provides for the primacy of one over the other.

58 The legality of Article 8(b) of Regulation No 45/2001 can therefore be disputed only in the light of a provision of primary law.

59 However, it is clear that, in their written pleadings, the applicants have not referred to any such provision.

60 In any event, the protection of personal data guaranteed by Article 8(b) of Regulation No 45/2001 and that guaranteed by Article 7(f) of Directive 95/46 have, in their respective spheres of application, an analogous scope.

61 The first plea in law must therefore be rejected.

The second plea in law, alleging infringement of the combined provisions of Article 4(1)(b) of Regulation No 1049/2001 and of Article 8(b) of Regulation No 45/2001 as regards the need to transfer personal data

62 By the second plea in law, the applicants allege an infringement of the combined provisions of Article 4(1)(b) of Regulation No 1049/2001 and Article 8(b) of Regulation No 45/2001 in that the Parliament rejected the requests for access to the documents requested, although the conditions for disclosure were met.

63 It must be recalled, at the outset, that Article 15(3) TFEU provides that any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, are to have a right of access to the documents of the institutions of the European Union, subject to the principles and conditions defined in accordance with the procedure laid down in Article 294 TFEU (see judgment of 27 February 2014, *Commission* v *EnBW*, C-365/12 P, EU:C:2014:112, paragraph 61 and the case-law cited).

64 As stated in recital 1 of Regulation No 1049/2001, that regulation reflects the intention expressed in the second paragraph of Article 1 TFEU, which was inserted by the Treaty of Amsterdam, to mark a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. As is stated in recital 2 of Regulation No 1049/2001, the right of public access to documents of the institutions is connected with the democratic nature of those institutions (see judgment of 15 July 2015, *Dennekamp* v *Parliament*, T-115/13, EU:T:2015:497, paragraph 35 and the case-law cited).

65 It must also be recalled that Article 4(1)(b) of Regulation No 1049/2001 is an indivisible provision and requires that any undermining of privacy and the integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, in particular with Regulation No 45/2001. That provision thus establishes a specific and reinforced system of protection of a person whose personal data could, in certain cases, be communicated to the public (judgment of 29 June 2010, *Commission* v *Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 59 and 60).

66 It follows that, where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation No 45/2001 become applicable in their entirety (judgment of 29 June 2010, *Commission* v *Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 63).

67 In the present case, it is apparent from the examination of the first plea that all the requested documents contain personal data, so that the provisions of Regulation No 45/2001 are applicable in their entirety to the present case.

68 The Court has previously held that derogations from the protection of personal data must be interpreted strictly (see, by analogy, judgment of 9 November 2010, *Volker und Markus Schecke and Eifert*, C-92/09 and C-93/09, EU:C:2010:662, paragraph 77).

69 Thus, in the context of decisions by which an institution refuses a request for access to information containing personal data on the ground that it is covered by the exception set out in Article 4(1)(b) of Regulation No 1049/2001 concerning protection of privacy and the integrity of the individual, those data may be transferred only if their addressee shows that the transfer is necessary and if there is no reason to believe that that transfer could prejudice the legitimate interests of the person concerned, by virtue of Article 8(b) of Regulation No 45/2001, which the institutions are bound to follow when they receive a request for access to documents containing personal data (see, to that effect, judgment of 29 June 2010, *Commission* v *Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 63).

70 Thus, it is clear from the wording of Article 8(b) of Regulation No 45/2001 that the regulation makes the transfer of personal data subject to two cumulative conditions being satisfied (judgment of 16 July 2015, *ClientEarth and PAN Europe* v *EFSA*, C-615/13 P, EU:C:2015:489, paragraph 46).

71 In that context, whoever requests such a transfer must first establish that it is necessary. If it is demonstrated to be necessary, it is then for the institution concerned to determine that there is no reason to assume that that transfer might prejudice the legitimate interests of the person concerned (judgment of 16 July 2015, *ClientEarth and PAN Europe* v *EFSA*, C-615/13 P, EU:C:2015:489, paragraph 47).

72 Thus, Article 8(b) of Regulation No 45/2001 requires the institution in receipt of an application for access initially to make an assessment of the necessity, and thus proportionality, of the transfer of personal data in the light of the applicant's objective, satisfaction of the requirement for necessity laid down in Article 8(b) of Regulation No 45/2001, which is to be interpreted strictly, requiring the applicant to show that the transfer of personal data is the most appropriate of the possible measures for attaining the applicant's objective and that it is proportionate to that objective, which requires the applicant to provide express and legitimate reasons to that effect (judgment of 15 July 2015, *Dennekamp* v *Parliament*, T-115/13, EU:T:2015:497, paragraphs 54 and 59).

73 In the present case, in order to demonstrate the need for the transfer of the data in question, the applicants have indeed stated various objectives pursued by their requests for access to documents, namely, in essence, on the one hand, to enable the public to verify the appropriateness of the expenses incurred by

MEPs in the exercise of their mandate and, on the other, to guarantee the public right to information and transparency.

74 In that regard, it must first be held that, because of their excessively broad and general wording, those objectives cannot, in themselves, establish the need for the transfer of the personal data in question.

75 Indeed, the Parliament cannot be criticised for not having deduced from such objectives, expressed in such broad and general terms, an express demonstration of the need to transfer those personal data (see, to that effect, judgments of 23 November 2011, *Dennekamp* v *Parliament*, T-82/09, not published, EU:T:2011:688, paragraph 34, and of 21 September 2016, *Secolux* v *Parliament*, T-363/14, EU:T:2016:521, paragraph 70 and the case-law cited).

76 A contrary view would oblige the institution, as a matter of principle, to infer from general considerations relating to the public interest in the disclosure of personal data that the necessity for the transfer of those data has, by implication, been established (see, to that effect, judgment of 23 November 2011, *Dennekamp* v *Parliament*, T-82/09, not published, EU:T:2011:688, paragraph 35).

77 In the first place, as regards the first objective raised by the applicants, they do not show how the transfer of personal data at issue is necessary to ensure an adequate review of the expenditure incurred by MEPs to fulfil their mandate, in particular to remedy the alleged inadequacies of existing mechanisms for the review of that expenditure.

78 Thus, the evidence provided by the applicants to support the necessity of that transfer is unconvincing.

79 First of all, the references to journalistic inquiries relating to the expenditure of the MEPs of the United Kingdom of Great Britain and Northern Ireland are irrelevant in the light of the applicants' objective to ensure public review of the expenditure of MEPs.

80 Furthermore, the reference to the annulment by the General Court in the case which gave rise to the judgment of 7 June 2011, *Toland* v *Parliament* (T-471/08, EU:T:2011:252), of the Parliament's decision to reject the application for access by a journalist to Report No 6/02 of the Internal Audit Service of the Parliament of 9 January 2008 on the parliamentary assistance allowance, cannot be transposed to the present case.

81 On the one hand, the request for access at issue in the case that gave rise to the judgment of 7 June 2011, *Toland* v *Parliament* (T-471/08, EU:T:2011:252) related to an internal Parliament audit report, not to all the documents relating to the details of the use, by the MEPs, of the various allowances allocated to them.

82 On the other hand, as is apparent from paragraphs 42 to 85 of the judgment of 7 June 2011, *Toland* v *Parliament* (T-471/08, EU:T:2011:252), the grounds for rejection of the application for access in question were not based on the exception set out in of Article 4(1)(b) of Regulation No 1049/2001 concerning the protection of personal data but on the exceptions set out in the third indent of Article 4(2) and Article 4(3) of that regulation concerning the protection of the purpose of inspections, investigations and audits and of the institution's decision-making process. Accordingly, the applicant was not required, as in the present case, to demonstrate the need for access to the documents requested in the light of the objectives it pursued.

83 In any event, even if, by that reference to the case which gave rise to the judgment of 7 June 2011, *Toland* v *Parliament* (T-471/08, EU:T:2011:252), the applicants intend to illustrate the need to have access to the documents requested in order to ensure an adequate review of MEPs' expenditure, the annulment of the Parliament's decision in that case having led, according to them, to a strengthening of the rules concerning the use of the parliamentary assistance allowance, that argument must nonetheless be rejected. Indeed, in the light of the differences between the audit report at issue in that case and the documents at issue in the present proceedings, the mere fact that the publication of the report had the effect claimed by the applicants, if it is established, cannot demonstrate the need to transfer the personal data contained in the documents requested.

84 Next, although the applicants have referred, in their confirmatory applications for access, to 'many instances of fraud committed by the MEPs, confirmed or alleged in past years', that reference, which is particularly abstract and general in nature, cannot justify the need for the transfer of the personal data of MEPs referred to in each of the applicants' requests, let alone its proportionality.

85 In any event, it must be noted that the applicants cite only the example of one Bulgarian MEP.

86 However, that example cannot suffice to justify the transfer of the personal data of all MEPs.

87 Finally, although the applicants do indeed refer, in their application, to suspicions of fictitious employment in connection with MEPs, it must be noted that that evidence was not put to the Parliament in the context of their confirmatory applications for access.

88 It is appropriate to note that whoever requests such a transfer of personal data must first establish that it is necessary. If it is demonstrated to be necessary, it is then for the institution concerned to determine that there is no reason to assume that that transfer might prejudice the legitimate interests of the person concerned. In that regard, it is appropriate to note that the applicants did not put forward any argument relating to suspicions of fictitious employment in connection with MEPs before the adoption of the contested decisions (see, to that effect, judgment of 21 September 2016, *Secolux* v *Commission*, T-363/14, EU:T:2016:521, paragraphs 36 and 37).

89 Accordingly, the evidence relating to suspicions of fictitious employment in connection with MEPs cannot be taken into account to justify the transfer of the personal data of those MEPs.

90 In the second place, with regard to the second objective pursued by the applicants, the wish to institute public debate cannot suffice to show the need for the transfer of personal data, since such an argument is connected solely with the purpose of the request for access to the documents (see, to that effect, judgment of 15 July 2015, *Dennekamp* v *Parliament*, T-115/13, EU:T:2015:497, paragraph 84).

91 No automatic priority can be conferred on the objective of transparency over the right to protection of personal data (see, by analogy, judgment of 9 November 2010, *Volker und Markus Schecke and Eifert*, C-92/09 and C-93/09, EU:C:2010:662, paragraph 85).

92 In the third and last place, it should be noted that, if, as the applicants contend, it is clear from the judgment of 15 July 2015, *Dennekamp* v *Parliament* (T-115/13, EU:T:2015:497), that the need for the transfer of personal data may be based on a general objective, such as the public's right to information concerning the conduct of MEPs in the exercise of their duties, it follows from paragraph 81 of that judgment that only demonstration by the applicants of the appropriateness and proportionality to the objectives pursued by the request for disclosure of personal data would allow the Court to verify the need for that disclosure within the meaning of Article 8(b) of Regulation No 45/2001.

93 The applicants, however, have not submitted, in either their initial requests or their confirmatory applications for access, any express and legitimate reasons proving that the transfer of personal data at issue was the most appropriate of the possible measures, including the use of data and documents publicly available, in order to achieve the objective they pursued and that it was proportionate to that objective.

94 The reference in the confirmatory applications for access to the judgment of 16 July 2015, *ClientEarth and Pan Europe* v *EFSA* (C-615/13 P, EU:C:2015:489) cannot succeed either, since, unlike in the present case, the Court had noted, in paragraph 65 of that judgment, that evidence of the need for the disclosure of personal data had been adduced by means of concrete evidence, such as, in particular, the links maintained by the majority of expert members of working groups of the European Food Safety Authority (EFSA) with pressure groups.

95 In any event, it must also be held that, by their arguments, the applicants are not so much seeking again to challenge the legality of the contested decisions but are, in essence, denouncing shortcomings in and the ineffectiveness of existing review mechanisms, which it is not for the Court to assess in the context of the present proceedings.

96 Accordingly, it must be held that the applicants have not shown the need for the transfer of the requested documents.

97 Since the conditions laid down in Article 8(b) of Regulation No 45/2001 are cumulative (judgment of 16 July 2015, *ClientEarth and PAN Europe* v *EFSA*, C-615/13 P, EU:C:2015:489, paragraph 46), there is no need to ascertain whether there is reason to believe that the transfer of the requested documents could affect the legitimate interests of the persons concerned.

98 In consequence, the second plea in law must be rejected.

The third plea in law, alleging infringement of the general obligation, arising from the combined provisions of Articles 2, 4 and 6(3) of Regulation No 1049/2001, to make a specific and individual examination of each document requested and the illegality of the refusal of access based on excessive administrative burden

99 The applicants' third plea in law consists of two parts which must be examined separately.

First part of the third plea in law

100 By the first part of the third plea, the applicants allege infringement of the general obligation, arising from the combined provisions of Articles 2, 4 and 6(3) of Regulation No 1049/2001, to make a specific and individual examination of each document requested.

101 To that effect, the applicants claim that, although it is possible to exempt an institution from examining each individual document, it is not possible in the present case, because the requested documents clearly do not belong to the same category since the diversity of their content is obvious.

102 In that regard, it must be borne in mind that, in accordance with established case-law, to justify a refusal to grant access to a document of which disclosure has been requested, it is not sufficient, in principle, for that document to concern an activity referred to in Article 4 of Regulation No 1049/2001 (see, to that effect, judgments of 1 July 2008, *Sweden and Turco* v *Council*, C-39/05 P and C-52/05 P, EU:C:2008:374, paragraph 49, and of 21 July 2011, *Sweden* v *MyTravel and Commission*, C-506/08 P, EU:C:2011:496, paragraph 76).

103 Indeed, according to settled case-law, the examination required for the purpose of processing a request for access to documents must be specific in nature. Thus, firstly, the mere fact that a document concerns an interest protected by an exception is not sufficient to justify application of that exception. Secondly, the risk of a protected interest being affected must be reasonably foreseeable and not merely hypothetical. Consequently, the examination which the institution must undertake in order to apply an exception must be carried out in a specific manner and must be apparent from the reasons for the decision (see judgment of 13 April 2005, *Verein für Konsumenteninformation* v *Commission*, T-2/03, EU:T:2005:125, paragraph 69 and the case-law cited).

104 That specific examination must, moreover, be carried out in respect of each document covered by the request. It is in fact apparent from Regulation No 1049/2001 that all the exceptions mentioned in Article 4 thereof are specified as being applicable to 'a document' (judgment of 13 April 2005, *Verein für Konsumenteninformation* v *Commission*, T-2/03, EU:T:2005:125, paragraph 70).

105 The fact remains that the Court has acknowledged that it was open to the institutions, in order to explain how access to the documents requested could undermine an interest protected by an exception laid down in Article 4 of Regulation No 1049/2001, to base their decisions in that regard on general presumptions which apply to certain categories of documents, as considerations of a generally similar kind are likely to apply to requests for disclosure relating to documents of the same nature (see, to that effect, judgments of 1 July 2008, *Sweden and Turco* v *Council*, C-39/05 P and C-52/05 P, EU:C:2008:374, paragraph 50; of 29 June 2010, *Commission* v *Technische Glaswerke Ilmenau*, C-139/07 P, EU:C:2010:376, paragraph 54; and of 27 February2014, *Commission* v *EnBW*, C-365/12 P, EU:C:2014:112, paragraph 65).

106 In the present case, the Parliament has taken the view, in the contested decisions, that the requested documents, such as hotel bills, travel tickets, employment contracts or pay slips, all fell within the same categories. The applicants maintain that the diversity of the documents means that they cannot fall within the same category.

107 In order to reject that argument, on the one hand, it is sufficient to note that it is based on a false premiss, since the Parliament has not taken the view, in the contested decisions, that all the documents fell within a single category, but within various categories.

108 Thus, for example, for the purposes of applying the exception laid down in Article 4(1)(b) of Regulation No 1049/2001, the Parliament was of the view that all travel tickets fell within the category of travel tickets, hotel bills fell within the category of hotel bills, all employment contracts fell within the category of employment contracts or that all pay slips fell within the category of pay slips.

109 Consequently, the Parliament has not failed to carry out a specific and individual examination of each document requested under a single category, but under the various categories of documents which it had isolated.

110 On the other hand, it is necessary to recall that the documents within those various categories contain personal data, even if only the names of the MEPs concerned by each document in question.

111 Since the applicants' claims refer to all documents enabling it to be determined how and when the MEPs referred to in each of those applications spent the various allowances listed in those requests, those requests necessarily mean that the documents requested contain elements to identify by name each of these MEPs.

112 That is the case of the daily allowances, travel expenses and parliamentary assistance allowance, if only for the purpose of their payment to the persons concerned.

113 Accordingly, the Parliament cannot be criticised for not having carried out a specific and individual examination of each document requested in the light of the exception referred to in Article 4(1)(b) of Regulation No 1049/2001.

114 Accordingly, the first part of the third plea in law must be rejected.

The second part of the third plea in law

115 By the second part of the third plea in law, the applicants rely on the illegality of the refusal, based on an excessive administrative burden, of access to the documents requested.

116 In that regard, it should be noted at the outset that, in the contested decisions, the Parliament rejected the confirmatory applications for access, in that, firstly and correctly, as is apparent from the examination of the first and second pleas in law, all those documents contained personal data, in respect of which the applicants had not demonstrated the need for the transfer, and, secondly, the disclosure in full of the documents requested in all of the requests meant an excessive administrative burden.

117 Thus, it is clear that, as regards the documents requested held by the Parliament, the refusal of access was justified on the basis of two alternative and independent grounds, so that one of the grounds is necessarily superfluous with regard to the other.

118 Consequently, since the General Court has rejected the first and second pleas in law, which called into question the legality of the first ground of the decision of the Parliament, the second part of the third plea in law, which concerns the second of those grounds, necessarily superfluous with regard to the first, must be rejected as ineffective.

119 For the same reasons, the Parliament cannot justifiably be criticised for not having consulted the applicants informally with a view to finding an equitable solution in accordance with Article 6(3) of Regulation No 1049/2001. Indeed, those provisions cannot be invoked, since, in the present case, the

Parliament has found, correctly, that the documents requested were covered by the exception referred to in Article 4(1)(b) of that regulation, as is clear from the examination of the first and second pleas.

120 Consequently, the second part of the third ground of appeal must also be rejected as being ineffective and, accordingly, so must the third plea in law in its entirety.

The fourth plea in law, alleging infringement of Article 4(6)(b) of Regulation No 1049/2001

121 By the fourth plea in law, the applicants allege infringement of Article 4(6)(b) of Regulation No 1049/2001 in that even partial access to the documents requested was refused.

122 The applicants claim that the Parliament did not carry out a specific, individual assessment of the content of the documents requested, while it should, at the very least, have disclosed the documents requested which were not covered by an exception and that disclosure of those documents, even partial, would have satisfied the objective pursued by their requests for access.

123 In that respect, it should be noted that, in the contested decisions, the Parliament took the view that the redaction of personal data in the documents requested would not achieve the objectives pursued in the context of the requests for access and meant an excessive administrative burden.

124 The applicants' arguments cannot affect the legality of the contested decisions in that regard.

125 Indeed, as is apparent from the examination of the pleas in law and the applicants' confirmatory applications, the applicants wish to have access to documents relating to the individual expenditure of the MEPs referred to in each of those requests in order to check the appropriateness of the expenditure with regard to each of them.

126 However, it is clear that the disclosure of a version of the documents requested expunged of all personal data, including, in particular, those concerning the names of the MEPs, would have deprived the access to these documents of any useful effect in the light of those objectives, given that such access would not have enabled the applicants to monitor individually the expenditure of MEPs, since it would be impossible to link the documents requested to the persons concerned.

127 In any event, it cannot seriously be disputed that the redaction of all personal data in the documents requested meant an excessive administrative burden having regard to the volume of documents requested (see judgment of 2.October 2014, *Strack* v *Commission*, C-127/13 P, EU:C:2014:2250, paragraphs 36 and 37).

128 Indeed, it is appropriate to note that the Parliament, in the contested decisions, estimated the number of accounting and financial documents related to reimbursements of travel expenses and to MEPs' daily allowances at over 220 000 per year, those documents, some of which are only in paper format, being retained by the Parliament only for certain administrative and financial purposes, which the applicants have not disputed in their pleadings.

129 During the hearing, the Parliament stated that there were, without being contradicted on that point by the applicants, an average of 5 500 pages per MEP during the relevant periods, namely 33 000 pages for the six Cypriot members, more than 500 000 pages for the 96 German members and more than four million documents for all requests.

130 Thus, all the documents requested were clearly extremely voluminous, which also constituted a fact justifying the refusal of partial access to those documents.

131 Consequently, the applicants' fourth plea in law must be rejected.

The fifth plea in law, alleging infringement of the obligation to state reasons provided for in Articles 7(1) and 8(1) of Regulation No 1049/2001

132 By the fifth plea in law, the applicants allege infringement of the obligation to state reasons provided for in Article 7(1) and Article 8(1) of Regulation No 1049/2001, in that the Parliament failed to examine all their arguments.

133 In that regard, it is clear that, in the context of their fifth plea, the applicants criticise the Parliament exclusively for not having responded, in the contested decisions, to all the arguments which they had put forward in the context of their confirmatory applications for access.

134 It is apparent from the case-law that the obligation to state reasons does not require the institution concerned to respond to each of the arguments put forward during the procedure preceding the adoption of the contested decision (see, to that effect, judgments of 14 July 1972, *Cassella* v *Commission*, 55/69, EU:C:1972:76, paragraph 22, and of 24 January 1992, *La Cinq* v *Commission*, T-44/90, EU:T:1992:5, paragraph 41).

135 Consequently, the applicants' arguments cannot be accepted.

136 In any event, it is also settled case-law that the statement of reasons required must be appropriate to the measure at issue and must disclose in a clear and unequivocal fashion the reasoning followed by the institution which adopted the measure in such a way as to enable the persons concerned to ascertain the reasons for the measure and to enable the competent court to exercise its power of review (judgments of 2 April 1998, *Commission* v *Sytraval and Brink's France*, C-367/95 P, EU:C:1998:154, paragraph 63, and of 1 February 2007, *Sison* v *Council*, C-266/05 P, EU:C:2007:75, paragraph 80).

137 In the present case, the statement of reasons for the contested decisions enabled the applicants to ascertain the reasons for the contested decisions and the Court to exercise its power of review, as is apparent from an examination of the first to fourth pleas in law.

138 Consequently, the fifth plea must be rejected and, accordingly, the action must be dismissed in its entirety.

Costs

139 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

140 Since the applicants have been unsuccessful, they must be ordered to pay the costs, in accordance with the form of order sought by the Parliament.

On those grounds,

THE GENERAL COURT (Fifth Chamber, Extended Composition),

hereby:

1. **Orders the joinder of Cases T-639/15 to T-666/15 and T-94/16 for the purposes of the judgment;**

2. **Dismisses the actions;**

3. **Orders Ms Maria Psara, Ms Tina Kristan, Ms Tanja Malle, Mr Wojciech Cieśla, Mr Staffan Dahllof, Ms Delphine Reuter, České centrum pro investigativní žurnalistiku o.p.s., Mr Harry Karanikas, Ms Crina Boros, Baltijas pētnieciskās žurnālistikas centrs Re:Baltica, Mr Balazs Toth, Ms Minna Knus-Galán, Mr Atanas Tchobanov, Mr Dirk Liedtke, Mr Nils Mulvad, Mr Hugo van der Parre, Ms Guia Baggi, Mr Marcos García Rey, Mr Mark Lee Hunter, Mr Kristof Clerix, Mr Rui Araujo, Ms Anuška Delić, Mr Jacob Borg, Ms Matilda Bačelić and Mr Gavin Sheridan to pay the costs.**

Gratsias Labucka Dittrich

Ulloa Rubio Xuereb

Delivered in open court in Luxembourg on 25 September 2018.

E. Coulon D. Gratsias

Registrar President