



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

The Director-General

Brussels,

Tristan Godaert
Journalist at RTBF
52 Bd Reyers,
B-1044 Bruxelles

*By email with acknowledgment of
receipt: ask+request-11504-
d53910ad@asktheeu.org*

Dear Mr Godaert,

Subject: Your application for access to documents – GESTDEM 2022/3760

We refer to your online request of 29 June 2022 in which you make a request for access to documents, registered on 30 June 2022 under the above-mentioned reference number.

We also refer to our email of 22 July extending the time limit to respond to your request according to Article 7(3) of Regulation (EC) No 1049/2001¹ and to our email dated 12 August 2022 indicating that the request had been assessed and that the reply was in the signature workflow.

1. Scope of your request

In your request, you ask on the basis of Regulation (EC) No 1049/2001, access to reports of meetings, and correspondence on the Europe's Beating Cancer Plan with representatives of alcohol industry and its lobby groups between the period of September 23rd 2020 to February 15th 2022.

2. Identification and assessment of relevant documents

We have identified 27 documents that fall within the scope of your request.

You will find attached a table listing the identified documents and summarizing the outcome of the assessment carried out on the basis of Regulation (EC) No 1049/2001.

Since some documents originate from a third party in accordance with Art. 4(4) of the Regulation, the originator of the documents has been consulted in order to assess whether an exception established in Article 4 applies to these documents.

¹ Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Having examined the documents under the provisions of Regulation (EC) No 1049/2001 and considered the opinion of the third party, we have come to following conclusion, which is further explained below:

- Documents No 1 to 6 and No 7 to 23 may only be partially disclosed as their full disclosure is prevented by one of the exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001.
- No access can be granted to the two annexes (documents 6.1 and 6.2) of document nr 6 as their disclosure is prevented by an exception to the right of access laid down in Article 4 of the Regulation.

We enclose a copy of the documents redacted of the parts that cannot be disclosed, as further explained below.

Please note that in documents 11, 12.2 and from 20 to 23 parts falling outside the scope of the request have been redacted and labelled “out of scope”.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based [Commission Decision on the reuse of Commission documents](#). You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Please note that documents originating from third party are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

As to the minutes or a summary record of a meeting with external parties, these documents were drawn up for internal use under the responsibility of the relevant services/officials of the Directorate-General for health and food safety. They solely reflect the services’/ author's interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which was not consulted on its content. They do not reflect the position of the Commission and cannot be quoted as such.

3. Partial disclosure of documents

Protection of the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data - Article 4(1)(b) of Regulation (EC) No 1049/2001

With regard to No 1 to 6 and No 7 to 23, a complete disclosure of the documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;

- handwritten signatures/abbreviated signatures of natural persons;
- other information relating to an identified or identifiable natural person including their job titles.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

In accordance with the above mentioned, partial access is granted to the mentioned documents, expunged of personal data.

4. Refusal of documents

Protection of the commercial interests of a legal person, including intellectual property rights, - Article 4(2), first indent, of Regulation (EC) No 1049/2001

With regard to the annexes of document No 6, concretely documents No 6.1 and 6.2 a disclosure of the documents is prevented by the exception concerning the protection of the commercial interests of a legal person, as laid down in the Article 4(2), first indent, of Regulation (EC) No 1049/2001.

Those documents were provided to the Commission by Comité Européen des Entreprises Vins (CEEV). In accordance with Article 4(4) of Regulation (EC) No 1049/2001, the originator of the documents has been consulted in order to assess whether an exception established in Article 4 applies to these documents.

The consulted third party has refused disclosure based on the exception of Article 4(2), first indent, of Regulation (EC) No 1049/2001. In particular, the consulted third party considers that the two documents were prepared as internal documents intended for the information of CEEV members only and that they include proprietary information. Their disclosure would undermine the commercial interest of the third-party, including intellectual property rights.

Having assessed the justifications put forward by the third party, we have decided to respect the objection of the third party and thus we have come to the conclusion that no access can be granted to documents No 6.1 and 6.2 as release of these documents would undermine the protection of the commercial interests of CEEV.

We have considered whether partial access could be granted to these documents according to Article 4 (6) of Regulation 1049/2001. However, and following the opinion of the third party, we have come to the conclusion that the documents are entirely covered by the above exception to the right of access to documents.

Therefore, no access can be granted to documents 6.1 and 6.2.

5. Overriding public interest

The exceptions to the right of access provided for in the first indent of Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested document. In your application, you did not submit any grounds concerning a public interest on the basis of which the interests protected in Regulation (EC) No 1049/2001 would have to be overridden, and we could not identify any such ground either. In these circumstances, we have to conclude that there is no evidence of an overriding public interest in disclosure, in the sense of Regulation (EC) No 1049/2001.

6. Means of redress

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

7. Acknowledgment of receipt

According to the standard operational procedure, the reply is sent by e-mail only. We would therefore appreciate if you could explicitly confirm receipt of the e-mail within 5 working days by replying to sante-cancer@ec.europa.eu.

Yours faithfully,

Sandra GALLINA
Director-General

Enclosure: List of the documents and disclosed documents