

Parma, 26 July 2017
Ref. DD/CP/mm (2017)- out -18120375

Martin Pigeon
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Re: Your request for public access to documents of 17 May 2017

Our ref: PAD 2017/038

Dear Mr Pigeon,

I refer to your request for public access to documents submitted on 17 May 2017 through Ask the EU website, by means of which you requested access to *"the following documents:*

- 1. all correspondence, including emails, between EFSA (employees and Board members) and third parties (excluding with and from Corporate Europe Observatory, PAN-Europe, ENSSER, La Via Campesina, Testbiotech, Sciences Citoyennes, Gene Watch and Greenpeace, as well as the submissions received by EFSA during its recent public consultation on the matter) related to EFSA's independence (and in particular but not exclusively EFSA's ongoing review of its independence policy) since 1st January 2016.*
- 2. all minutes of meetings between EFSA and third parties (minus Corporate Europe Observatory, Testbiotech, PAN-Europe, ENSSER, La Via Campesina, Sciences Citoyennes, Gene Watch and Greenpeace, as well as the submissions received by EFSA during its recent public consultation on the matter) related to EFSA's independence (and in particular but not exclusively EFSA's ongoing review of its independence policy) since 1st January 2016."*

As per our letter of 4 July 2017 and taking into account the third-party consultations in accordance with Article 4(4) of the PAD Regulation, which took considerable time, we proposed you a reply in batches. This letter constitutes the second and final batch of documents falling within the scope of your request as follows.

1. Partial disclosure – 2nd and final batch

With regard to the first point of your request and as already stated in our letter of 4 July 2017, we understand that your request covers correspondence (e-mails or other) with third parties relating to EFSA's independence policy and its review, in the time period from 1 January 2016 until the date of your request.

We are pleased to provide you with a final set of documents that have been identified consisting of the correspondence between EFSA and the third parties as follows:

- Comments received after the submission deadline of the public consultation on EFSA's draft Policy on Independence;
- Two e-mails from a citizen;
- Correspondence exchanged with a journalist in which we have masked information outside the scope of your request related to the independence policy;
- E-mails exchanges with three journalists similar in content concerning the independence policy.

We would like to inform you that on 21 June 2017 the Management Board adopted the update of the EFSA's independence policy which is now publicly available¹. Furthermore, an ex post analysis on EFSA's 2011 Policy on Independence and 2014 Rules on Declarations of Interest was carried out by Deloitte Belgium². The Final Comprehensive³ and Summary⁴ Reports of this audit exercise, entitled "Ex post Evaluation of the Policy on Independence and Scientific Decision-Making Processes of EFSA and of its Implementing Rules on Declaration of Interest" are also publicly available. Other related documents have been identified. However, EFSA holds that these documents cannot be disclosed since they are to be protected under the exception relating to the "purpose of inspections, investigations and audits" provided in the third indent of Article 4(2) of PAD Regulation. We can add that these documents concern the audit activity carried out by Deloitte under the procurement contract.

Please note that personal data (i.e. names of individuals and other personal data) present in all the documents disclosed to you have been masked in accordance with Article 4(1)(b) of the PAD Regulation and Article 8(b) of the Data Protection Regulation (EC) No 45/2001. In line with the settled case law of the Union Courts⁵, EFSA will only be able to balance the interests at stake and to consider the disclosure of personal data after you have provided an express and legitimate justification and convincing arguments in order to demonstrate the necessity of having personal data transferred to you.

With regard to the second point of your request, we have further verified the meetings held between EFSA and third parties relating to the EFSA's independence policy and its review. As a result, no other meetings were identified to fall in the scope of your request.

We hope you find the disclosed document useful. I must remind you that all persons reproducing, redistributing, exploiting or making commercial use of this information are expected to adhere to the terms and conditions asserted by the copyright holder.

2. Confirmatory application

To exercise your right to appeal against this decision of partial disclosure by a confirmatory application, you may write to EFSA at the address below. You have fifteen working days from receipt of this letter to appeal. Beyond this deadline, your initial request will be considered as fully satisfied. In case you submit a confirmatory application, EFSA will inform you of the outcome of this re-examination of your request within fifteen working days of receipt, either by granting you access to the documents or by confirming the refusal. In the latter case, you will also be informed of any further appeal routes available.

¹ <http://www.efsa.europa.eu/en/corporate/pub/policyonindependence>.

² <http://www.efsa.europa.eu/sites/default/files/efsacontractors2016.pdf>.

³ <http://www.efsa.europa.eu/sites/default/files/mb170322-ev.pdf>.

⁴ <http://www.efsa.europa.eu/sites/default/files/mb170322-ev-s.pdf>.

⁵ See Judgment in Case C-28/08 P, European Commission v The Bavarian Lager Co. Ltd., EU:C:2010:378.

Further correspondence must be sent to:

EFSA

Dirk Detken, Head of the Legal and Assurance Services

Via Carlo Magno 1/A

I-43126 Parma

Italy

e-mail: EFSA.public.access.to.documents@efsa.europa.eu

Yours sincerely,

[SIGNED]

Dirk Detken

Cc: V. Villamar, J. Ramsay (EFSA)

Encl: 1