



**EUROPEAN COMMISSION**  
**DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY**

**Director-General**

Brussels,  
SANTE/E4/AS/gb(2017)3953582

**By registered mail with  
acknowledgment of receipt**

Ms M. Rivasi  
Mr B. Javor  
Mr B. Staes

*Advanced copy by e-mail:*

[ask+request-4412-14796340@asktheeu.org](mailto:ask+request-4412-14796340@asktheeu.org)

Dear Ms Rivasi and Messrs. Javor and Staes,

**Subject: Your application for access to documents – Ref GestDem No 2017/3716**

We refer to your email dated 21/06/2017 in which you make the request for access to documents, registered on 23/06/2017 under the above mentioned reference number.

**1. Scope of your request**

In your request, you asked access on the basis of Regulation (EC) No 1049/2001<sup>1</sup> to:

- *Correspondence, including emails, sent or received by Commission officials or representatives which mention Monsanto or the Glyphosate Task Force during the year 2015. This includes inter-institutional correspondence, correspondence with Member States' authorities and their Permanent Representations as well as correspondence with third parties.*
- *Correspondence, including emails, between officials and Monsanto or the Glyphosate Task Force during the year 2015.*
- *Correspondence, including emails, between officials and EFSA, which mention Glyphosate, Monsanto or the Glyphosate Task Force during the year 2015.*
- *Correspondence, including emails, between officials and ECHA, which mention Glyphosate, Monsanto or the Glyphosate Task Force during the year 2016.*

Considering that the request concerns documents which mention Glyphosate Task Force, a group of companies working together to renew the approval of glyphosate, the

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

Commission has assumed that only documents relating to the re-approval of the active substance glyphosate are within the scope of the request.

## **2. Identification and assessment of the concerned documents**

We have identified 15 documents falling under the scope of your request.

Since some of the requested documents originate from third parties, the originators of the documents have been consulted in accordance with Regulation (EC) No 1049/2001, in order to assess whether an exception to the right of access to documents is applicable.

Having examined the documents and considered the opinions of these third parties, we have come to the conclusion that:

- i. full access can be granted to five documents numbered 4, 9, 10, 14 and 15, indicated with "Public" in the list of documents;
- ii. partial access can be granted to nine documents numbered 1, 2, 3, 5, 6, 8, 11, 12, and 13, indicated with "Partial" in the list of documents;
- iii. one document numbered 7 and indicated with "No" in the list of documents is protected in its entirety.

In addition to the 15 documents listed, the Commission identified three documents originating from individual citizens. Letters from citizens and the Commissions responses to those letters are not considered to be within the scope of your request.

Documents 9 and 10 are publicly available on PAN Europe's website<sup>2</sup>. Document 14 is publicly available on Corporate Europe's website<sup>3</sup>. Document 15, which is the addendum to the renewal assessment of glyphosate and annexed to document 5, is publicly available on the EFSA Register of Questions website<sup>4</sup>.

Please find attached the documents that are indicated with "Partial" as well as a table with the list of documents containing the assessment carried out on their content on the basis of Regulation (EC) No 1049/2001.

You may re-use Commission documents free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the documents. Documents originating from third parties cannot be re-used without the agreement of the originators.

## **3. Protection of personal data**

Document 1, 2, 3, 5, 6, 8, 11, 12, and 13 contains personal data, such as the names, signatures and telephone numbers of staff of the Commission, Glyphosate Task Force, the German authorities, Industria Afrasa and Avaaz. Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001<sup>5</sup>.

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<sup>2</sup> See <http://www.pan-europe.info/press-releases/2015/12/135733-europeans-call-ban-glyphosate>

<sup>3</sup> See [http://corporateeurope.org/sites/default/files/attachments/glyphosate\\_letter\\_with\\_logos\\_29102015.pdf](http://corporateeurope.org/sites/default/files/attachments/glyphosate_letter_with_logos_29102015.pdf)

<sup>4</sup> See <http://registerofquestions.efsa.europa.eu/roqFrontend/outputLoader?output=ON-4302>

<sup>5</sup> 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 L 8, 12.1.2001, p. 1).

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable.<sup>6</sup> According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, partial access is granted to the requested document, expunged of personal data.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to make a confirmatory application requesting the Commission to review this position.

#### **4. Reasons for refusal**

##### *Documents 6 and 7*

Documents 6 and 7 are documents sent by the company Industria Afrasa which is part of the Glyphosate Task Force. The documents contain commercially sensitive business information relating to the activities of the company, namely information in relation to the company's technical specification of glyphosate. Disclosure would provide information to competitors which may cause damages to the company.

We have considered whether partial access can be granted to the documents and decided that the exception laid down in Article 4(2), first indent of Regulation (EC) No 1049/2001 applies to the redacted parts in the second, third and fourth paragraph of document 6, and document 7 in its entirety.

#### **5. Overriding public interest**

The exceptions to the right of access provided for in Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested documents. 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. The public interest in this case is rather to protect the commercial interests of the legal persons concerned.

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<sup>6</sup> Judgment of the Court of Justice of the EU of 29 June 2010 in case C-28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

## 6. Means of redress

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the address below.

The Secretary-General will inform you of the result of such review within 15 working days from the date of registration of your request. You will either be given access to the document or your request will be rejected, in which case you will be informed of what further action is open to you.

All correspondence should be sent to the following address:

European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/282  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'p.o. X. Prats Monné', with a stylized flourish at the end.

Xavier Prats Monné

For the Director General absent,  
Ladislav MIKO  
Deputy Director General