



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels,
DG/JP/I.3/KVK/VA D(2018)6059170

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By registered letter with acknowledgment of receipt

Advance copy by email:

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Subject: Your application for access to documents – Ref GestDem No 2018/4902

Dear Sir,

We refer to your e-mail dated 17/09/2018 in which you make a request for access to documents, registered on 18/09/2018 under the above mentioned reference number.

You request access to any written record or audio recording of the meetings of the Special Committee on Agriculture held in 2017 produced by the Commission (not referring to the summary records produced by the Council).

We have identified 17 documents related to your request of which a list is attached as well as the documents identified.

You may reuse the documents requested 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. Please note that the Commission does not assume liability stemming from the reuse.

These documents also contain opinions provided by the Commission services and the Member States. They are disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

Having examined all the documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I would like to inform you that they can be partially disclosed, as disclosure of some parts is prevented by exception to the right of access laid down in Article 4 of this Regulation.

Please note that the names of Member States have been redacted in accordance with Article 4(3) as this disclosure would seriously undermine the institution's decision-

making process. As the position of Member States during the negotiations are crucial for their outcome, their early divulgation would impact directly and concretely the chances to finalise them in due time. Furthermore, even if a final decision on one subject would have been taken, it is very likely that the position of a given Member State has further implications for files closely related, in particular when it concerns the same policy.

Having examined documents no 8, 13 and 17 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I would like to inform you that they can be partially disclosed, as disclosure of some parts is prevented by exception to the right of access laid down in Article 4 of this Regulation.

Doc. 8

The document which you seek to obtain contains sensitive international relations information. The elements of EU's strategy as well as Member States' views on the file would be revealed which could undermine EU's negotiating positions. Therefore the exception laid out in Article 4(1)(a) third indent of Regulation (EC) No 1049/2001 applies in this case.

Doc. 13

The document which you seek to obtain contains sensitive international relations information. The elements of EU's strategy as well as Member States' views in the WTO negotiations would be revealed which could undermine EU's future negotiating positions. Therefore the exception laid out in Article 4(1)(a) third indent of Regulation (EC) No 1049/2001 applies in this case.

Doc. 17

The financial aspects of the proposal and the debate with Member States cannot be disclosed. The Commission considers all these aspects are covered by the exception of Article 4(3) of Regulation (EC) No 1049/2001. Disclosing the debate with Member States on this file could lead to some legal interpretations that could be used later on against the Commission in possible future Court cases.

The exceptions laid down in Article 4(3) of Regulation (EC) 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but have not been able to identify such an interest.

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 its position (see details below).

Moreover, all the documents to which you have requested access contain personal data. 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 Community legislation regarding the protection of personal data. The applicable legislation in this field is 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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

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) 1049/2001, 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
Secretary-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 5/282
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,



Jerzy PLEWA

Encl.: 17 doc. + 1 table

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.