



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY
Acting Director-General

Brussels,
SANTE/E2/JB/aa (2020) 5903206

***By registered letter with
acknowledgement of receipt¹***

Ms Alice Bernard
Client Earth
Rue du Trône 60
B-1050 Brussels

Advance copy by e-mail:
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Dear Ms Bernard,

**Subject: Your application for access to documents – Ref GestDem
No 2020/5398**

We refer to your e-mail of 14 September in which you make a request for access to documents which was registered on the same day under the above-mentioned reference number.

1. Scope of your request

In your request, you ask on the basis of Regulation (EC) No 1049/2001² and Regulation (EC) No 1367/2006 access to:

1. Documents and/or information drafted or received since 17 July 2020 by any personnel of the Directorate-General for Health and Food Safety (including the personnel involved in the implementation of Regulation (EC) 1107/2009 on “Plant Protection Product”) that contain/refer to the positions of individual companies (including public affairs consultancies and law firms) and/or industry associations, in connection with the “Chemicals - Strategy for Sustainability (toxic free environment)” (the “Strategy”) (an initiative described at:

¹ According to standard operational procedure, the reply is usually also sent to you by registered post. Please note, however, that due to the extraordinary health and security measures currently in force during to the COVID-19 epidemics, which include the requirement for all Commission non-critical staff to telework, we are unfortunately not in a position to follow this procedure until further notice. We would therefore appreciate if you could confirm receipt of the present e-mail.

² Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

[https://ec.europa.eu/info/law/better-regulation/have-yoursay/initiatives/12264-Chemicals-strategy-for-sustainability-\);](https://ec.europa.eu/info/law/better-regulation/have-yoursay/initiatives/12264-Chemicals-strategy-for-sustainability-)

2. Documents indicating the existence of any meetings held in person, by telephone or video conference, since 17 July 2020 involving any personnel of the Directorate-General for Health and Food Safety, that discussed the Strategy in the presence of representatives of individual companies (including public affairs consultancies and law firms) and/or industry associations, including any agendas and/or minutes/notes/summary reports of such meetings;

3. Documents containing written comments of any personnel of the Directorate-General for Health and Food Safety which were submitted in the inter-service consultations on the Strategy, which occurred between 1 June 2020 and 11 September 2020.

2. Identification and assessment of the relevant documents

We have identified the following two documents falling under the scope of your request:

1. Gespräch mit dem VERBAND DER CHEMISCHEN INDUSTRIE e.V. - Ares(2020)4017944 -30/07/2020;
2. Reply of DG SANTE to the Inter-service consultation on the Chemicals Strategy for Sustainability - Ares(2020)4002281 – 29/07/2020.

Having examined these documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the conclusion that:

- Partial access can be granted to document number 1 (attached as an annex);
- No access can be granted to document number 2 as its full disclosure is prevented by one exception to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [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.

3. Reasons for partial disclosure

Protection of privacy and the integrity of the individual - Article 4(1)(b) of Regulation (EC) No 1049/2001

With regard to document No 1 identified in the preceding section, a complete disclosure 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 it contains 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.

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 express any particular interest to have access to these personal data nor do you 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 document, 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, partial access is granted to the above-mentioned document.
We are disclosing this document expunged from personal data.

4. Reason for refusal

Protection of the on-going decision –making process – Article 4(3) of Regulation (EC) No 1049/2001

Document 2 is the reply of DG SANTE to the Inter-service consultation on the Chemicals Strategy for Sustainability, initiated by DG ENV (Ares(2020)4002281), dated 29 July 2020. The document has been drawn up by the Commission for internal use and its disclosure would undermine the protection of the decision-making process of the Commission, as it sets out potential future policy, which is currently under consideration and for which a decision has yet to be taken. The Commission's services must be free to explore all possible options in preparation of a decision free from external pressure.

Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies fully to these documents.

5. Overriding public interests

The exceptions to the right of access provided for in Article 4(3) 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
Secretary-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

Yours sincerely,

Sandra Gallina

Enclosure: 1