Subject: Your application for access to documents – GESTDEM 2023/2008

Dear Mr. Martuscelli,

We refer to

- your request for access to European Commission documents registered on 31/03/2023 under the above-mentioned reference number.
- Our email of 25 April 2023 extending the time limit to respond to your request in accordance with Article 7(3) of Regulation (EC) No 1049/2001.
- Our email of 10 July 2023 informing you that the response to your request was under preparation, however required further internal consultations.

1. Scope of your request

Your request refers to “the planned meeting in March between the EU vaccine steering board and national scientific advisors on the scientific aspects of the vaccine strategy for 2022. You also refer to “The European Court of Auditors report on the EU’s vaccine procurement found that “In mid-March 2021, the steering board agreed to plan a meeting with EU and national scientific advisors on the scientific aspects of the vaccine strategy for 2022. Such a meeting never took place.””
In relation to the above, you are requesting access to the following documents:

- All emails, memos, reports, and communications, including and not limited to text messages, that are connected to the meeting, and that were sent in the run up to it. I’d also like any documents explaining why the meeting did not take place.

2. Identification and assessment of the documents

We understand that you are requesting access to the above-mentioned documents in light of the statement in the European Court of Auditors Special Report 19/2022 on EU COVID-19 vaccine procurement (¹), paragraph 48, that the meeting in question has not taken place. The relevant paragraph of the Report reads as follows:

“In mid-March 2021, the steering board agreed to plan a meeting with EU and national scientific advisors on the scientific aspects of the vaccine strategy for 2022. Such a meeting never took place.”

We would like to provide you with updated information in this regard. The meeting has taken place, as planned, namely on 6 April 2021, and minutes have been established after the meeting. These minutes had not been included in the Vaccines Steering Board meeting reports shared with the European Court of Auditors during the audit, which was the basis for the mentioned Special Report, as they were not yet registered in the Commission’s internal document archiving system (ARES). Thus, the European Court of Auditors could not have been aware of the meeting. The omission of registering the report closely to the date of the meeting happened in good faith in the overall circumstances of handling the EU’s response to the COVID-19 pandemic. The period in which the said meeting took place was marked by the initial roll-out of the vaccines purchased through EU advance purchase agreements. The European Court of Auditors has seen been informed.

Thus, we have been able to identify the following documents falling within the scope of your request:

(1) Invitation by SANTE DG Sandra Gallina to scientific experts dated 2 April 2021 and replies of invited experts – email thread registered under ARES(2023)2629953;

(2) Invitation by SANTE DG Sandra Gallina to EU Member States dated 2 April 2021 and replies from Member States – email thread registered under ARES(2023)2627538;

(3) Minutes of the Steering Board meeting on 19 March 2021 – registered under ARES(2021)3604354;

(4) Minutes of the Steering Board on vaccines - Meeting with Scientific Experts on 6 April 2021 – registered under ARES(2023)4482922.

Having examined the documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that the documents may be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(b) of this Regulation.

3. Reasons for partial disclosure

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

With regard to documents 1, 2, 3 and 4, a full 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 they contain the following personal data:

- the names/initials and contact details of natural persons;
- other information relating to an identified or identifiable natural person, such as professional background, role etc.

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, 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.

As regards document 3, the parts of the document dealing with matters that are out of scope of your request have been fully redacted.

4. Reuse of public documents

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.

5. 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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:
by mail:

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

Yours faithfully,

(e-signed)
Pierre DELSAUX

Encl: 4 documents listed under point 2 of the above letter