



EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL
Director General

Brussels,
SANCO/E3/FF/np

Dear Ms Lietar,

Subject: Your application for access to documents – Ref GestDem No 2014/3973

We refer to your application dated 9 September 2014 in which you made the request for access to documents registered under the above mentioned reference number.

1. Scope of your request

In your application you requested in accordance with Regulation (EC) No 1049/2001¹, "*on the topic of pesticides and endocrine disrupters (also spelled: disruptors), all correspondence (including emails), the list of meetings with detailed minutes and any other reports of such meetings between [...] DG Sanco and the following organisations and/or individuals: -The President of the European Commission José Manuel Barroso (and his representatives); -EFSA; -ECPA ; -CEFIC; -Bayer CropScience; -BASF (between March 2014 and now)*".

2. Identification of the concerned documents

We have identified 24 documents as falling under the scope of your request.

3. Assessment of the documents

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, with a view to assessing 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:

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

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- i) full access can be granted to the documents under numbers 17, 18, 20 and 21;
- ii) partial access can be granted to the documents under numbers 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 19, 22 and 23;
- iii) the documents under numbers 3, 8 and 24 are protected in their entirety.

Please find attached the documents under numbers 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 as well as a table indicating the exceptions applicable to each document on the basis of Regulation (EC) No 1049/2001. Please note that some of these documents were received by the Commission from ECPA and CEFIC. They are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on it. They do not reflect the position of the Commission and cannot be quoted as such.

4. Reasons for refusal

Documents 3, 8 and 24 contain information that are related to the discussion on the criteria for the determination of endocrine disrupting properties that the Commission has to adopt according to paragraph 3.6.5 of Annex II to Regulation (EC) No 1107/2009². These documents fully contain information about the internal discussions and policy options under consideration in the ongoing decision-making process concerning the criteria on endocrine disruptors. The premature disclosure of these documents would seriously undermine the margin of manoeuvre of the Commission that 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 paragraph³, of Regulation (EC) No 1049/2001 applies to the full content of these documents.

5. Overriding public interest

The exception to the right of access provided for in Article 4(3), first paragraph, 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. 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 Commission's on-going institutional and political decision-making process on the criteria for endocrine disruptors.

6. Protection of personal data

Documents under numbers 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 19, 22 and 23 contain personal data, such as the names, the e-mail addresses and the telephone numbers of industry and trade associations' personnel, as well as Commission's and EFSA's non-managerial staff. Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a

² Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

³ Article 4(3), first paragraph, of Regulation (EC) No 1049/2001 reads: "Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure".

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 Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001⁴.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable. 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, we are disclosing the documents requested expunged from such personal data.

7. Means of redress

May 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 documents 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-5
BERL 5/327
B-1049 Bruxelles

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

Yours sincerely,



Paola Testori Coggi

Annexes:

- 21 documents
- Table with the list of the documents within the scope of GestDem No 2014/3973.

⁴ 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).