



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels,  
DG/JP/R.6/VA D(2015) 3997904

***By registered letter with acknowledgment of receipt***

Ms Maria HEUBUCH  
European Parliament  
Rue Wiertz 60 – ASP 4F366 B-1047 Brüssel

***Advance copy by email :*** ask+request-2222-b14581f3@asktheeu.org

**Subject: Your application for access to documents – Ref GestDem No 4447/2015**

**Dear Sir,**

We refer to your e-mail dated 17/08/2015 in which you make a request for access to documents, registered on 18/08/2015 under the above mentioned reference number.

Your application concerns the following documents: Letter of formal notice to the Italian authorities seeking to adjust a national law in place since 1974, banning companies from using condensed & powdered milk and milk reconstituted with these ingredients in the manufacture of dairy products, as well as the response letter by the Italian authorities and any other related documents or exchange of letters or emails.

We have identified the following categories of documents that form part of the administrative file relating to the file Infringement file 2014/4170:

- (1) The complaint and the Commission's correspondence with the complainants.
- (2) The correspondence between the Commission and the Italian authorities in the context of EU-PILOT.
- (3) The Commission's internal documents relating to the file.

The documents which you seek to obtain relate to an ongoing investigation regarding a possible infringement of EU law concerning the ban of use of condensed or powdered milk for manufacturing of dairy products (INF/2014/44170/IT). Having examined them under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that they cannot be disclosed, as disclosure is prevented by the exception to the right of access laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001.

An infringement procedure has been opened and the Member State has a right to expect that this correspondence remains confidential as long as the infringement proceedings remain open so as to maintain the climate of mutual confidence between the Commission and the national authorities and not to exclude the possibility of friendly settlement of the case.

We have considered whether partial access could be granted to the documents requested, but they are entirely covered by the exception.

The exceptions laid down in Article 4(2) of Regulation (EC) 1049/2001 apply unless there is an overriding public interest in disclosure of the document. However, the public interest in making the content of the documents public does not outweigh the harm a disclosure would cause to the climate of mutual trust between the authorities of the Member State and the Commission in the context of the infringement proceedings.

In accordance with Article 7(2) of Regulation (EC) 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 unit SG-B-5  
BERL 5/327  
B-1049 Bruxelles

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

Yours faithfully,



Jerzy PLEWA