

EUROPEAN COMMISSION
HEALTH AND FOOD SAFETY DIRECTORATE-GENERAL

Director-General

Brussels,
SANTE/E4/KK/np

**By registered mail with
acknowledgment of receipt**

Mr Vincent Harmsen
Pieter Schroonsstraat 58
B - 1830 Machelen

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Dear Mr Harmsen,

Subject: Your applications for access to documents – Ref. GestDem No 2016/1035 and No 2016/1036

We refer to your emails dated 02 March 2016 in which you made two requests for access to documents registered on 03 March 2016 under the above mentioned reference numbers.

1. Scope of your request

On the basis of Regulation (EC) No 1049/2001¹, you asked access to:

"All correspondence (including emails), agendas, minutes of meetings and any other reports of such meetings between official of DG SANTE and officials/representatives of (one or more of) the following DGs/organisations: Secretariat-General; DG ENV; EFSA; ECPA; CropLife; Cefic; ACC; Monsanto; Bayer; BASF; Dow Chemicals; DuPont; AmCham; US Mission to the EU; German government; British government - where renewal of the approval of the active substance glyphosate was discussed (between October 2015 and March 2nd 2016)", registered as GestDem No 2016/1035,

and

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43–48.

"All correspondence (including emails), agendas, minutes of meetings and any other reports of such meetings where the findings of the International Agency for Research on Cancer (IARC) regarding the potential carcinogenicity of glyphosate or glyphosate-containing plant protection products were discussed by officials of DG SANTE and/or third parties (between March 2015 and March 2016)", registered as GestDem No 2016/1036.

2. Identification of the concerned documents

We have identified 55 documents as falling under the scope of your requests which are enlisted in the Table annexed to this letter.

3. Assessment of the documents

Some of the requested documents originate from third parties and Member States. According to Articles 4(4) and 4(5) of Regulation (EC) No 1049/2001, my services have consulted the authors of the documents, 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 their authors, we have come to the conclusion that:

- i) partial access can be granted to the documents under numbers 1, 4 to 6, 10, 11, 14, 16, 17, 19 to 22, 24 to 28, 34 to 38, 42, 44 to 47, and 50 to 52;
- ii) full access can be granted to the documents under numbers 12, 15, 18, 23, 29, 33, 39 to 41, and 43;
- iii) the documents under numbers 2, 3, 7 to 9, 13, 30 to 32, 48, 49, and 53 to 55 are protected in its entirety; therefore, access to these documents shall be refused.

Please find attached the documents under numbers 1, 4, 5, 6, 10, 11, 12, 14 to 29, 33 to 47, 50, 51 and 52. The annexed table specifies the provisions of Regulation (EC) No 1049/2001 on the basis of which access was refused or granted partially.

You may reuse Commission documents 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. Documents originating from third parties cannot be re-used without the agreement of the originators.

4. Reasons for refusal

The documents under numbers 2, 3, 7, 8, 9, 13, 30, 31, 32, 48, 49, 53, 54 and 55 contain information related to the ongoing renewal of the approval of the active substance glyphosate in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Implementing Regulation (EU) No 540/2011. The premature disclosure of these documents would seriously undermine the decision-making process of the Commission that must be free to explore all possible options in preparation of a decision free from external pressure.

We have considered whether partial access could be granted to these documents. These documents are entirely covered by the exceptions laid down in Articles 4(3), first paragraph, of Regulation (EC) No 1049/2001.

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, and we could not identify any such grounds 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. The public interest in this case is rather to protect the Commission ongoing decision-making process.

6. Protection of personal data

Some of the requested documents contain personal data, such as names, email addresses and telephone numbers of Commission's non-senior managerial staff and staff from industry and ECHA. 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 EU legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001².

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, partial access is granted to the requested documents, expunged for 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.

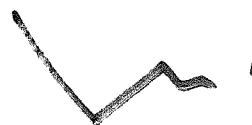
² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

All correspondence should be sent to the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles

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

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Xavier Prats Monné', with a stylized, somewhat jagged end.

Xavier Prats Monné

Annexes:

The documents fully and partially released

Table with the list of the documents within the scope of requests Ref. GestDem No 2016/1035 and No 2016/1036