



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Resource management and better regulation
Better regulation

Brussels,
sante.a.1.001/CC/wv/ (2016)5909401

***By registered mail with
acknowledgment of receipt***

Dear Ms Van Nunen,

Subject: Your application for access to documents – Ref. GestDem No 2016/4888

We refer to your email dated 02/09/2016 in which you make a request for access to documents, registered on the same date under the above mentioned reference number.

1. Scope of your request

In your request, you asked access, on the basis of Regulation (EC) No 1049/2001, to documents which contain the following information:

“1. Memos, guidance, guidelines, or training material (or any other document) for DG [Health and Food Safety] staff on record creation and/or record keeping, [in particular] documents that refer to creation/keeping of:

· Agendas (diaries of public officials' engagements), lists of meetings, minutes of meetings, lists of participants in meetings, and documents justifying decisions.

2. Memos, guidance, guidelines, or training material (or any other document) for DG [Health and Food Safety] staff on the processing of access to information requests.”

Ms Wiesje van Nunen
Access Info Europe
Cava de San Miguel 8, 4C
28005 Madrid
SPAIN

Advance copy by email: ask+request-3278-84724889@asktheeu.org

2. Identification of the concerned documents

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

1. DG SANCO Internal Guidance Document on Responsibilities of Administrators in relation to Document Management – March 2014 [Ares(2014)1015084 – 01/04/2014]
2. A presentation “Document Management in DG SANTE – Presentation to Newcomers”
3. DG SANTE Internal Guidance Document on Access to documents implementation of Regulation (EC) No 1049/2001 – July 2015 [Ares(2015)4030736 – 30/09/2015]
4. A presentation “Code of conduct and Access to documents in DG SANTE – Presentation to Newcomers”
5. An intranet screenshot with information on DG SANTE’s rules and procedures on how to handle requests for access to documents (taken on 12.9.2016)
6. An intranet screenshot with information on how DG SANTE handles “citizen’s inquiries” (taken on 16.9.2016)

3. Protection of personal data

Documents 1, 2, 3, 4 and 5 to which you have requested access contain personal data.

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 Community legislation regarding the protection of personal data. The applicable legislation in this field is 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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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/or 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 this personal data.

¹ Official Journal L 8 of 12.1.2001, p. 1.

² Judgment of the Court of Justice of the EU of 29 June 2010 in case C-28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-6055.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to make a confirmatory application requesting the Commission to review this position.

Please note that annexes 5, 6 and 8 of document 3 (*DG SANTE Internal Guidance Document on Access to documents implementation of Regulation (EC) No 1049/2001*) contain excerpts of actual letters that were sent and/or received by DG Health and Food Safety. Disclosure of these documents could imply a previous consultation of the person and/or institution from whom these documents originate. These excerpts were chosen at random and included as annexes to document 3 in question only to illustrate how the exceptions should be applied in accordance with the instructions that were laid down in the main text of the document. As the purpose of your request is to have access to internal guidance/training documents, we considered that actual correspondence of the DG with third parties, which is coincidentally included in such documents, falls out of the scope of your request. Those considerations informed our decision not to consult the concerned persons/institutions, but to release anonymised versions of the excerpts in the annexes.

4. 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 unit SG-B-4
BERL 5/282
B-1049 Bruxelles

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

Yours sincerely,

Carmen GARAU
Head of Unit

p.p. C. Gozza
