

Parma, 21 June 2017
Ref. DD/CR/mm (2017) - out-17932903

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Belgium

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Re: Your request for public access to documents of 29 May 2017

Our ref.: PAD 2017/042

Dear Mr Pigeon,

I refer to your request for access to documents of 29 May 2017, submitted from the website 'Ask the EU', by means of which you requested access to *'all documents, such as correspondence (including emails), briefings or meeting minutes, which relate to or contain the above-mentioned checks and confirmations by EFSA experts of the information provided by Mr. Rowland, following the teleconference (so between September 2015 and November 12 2015)'* as well as *'all correspondence (including emails) between EFSA and Mr. Rowland between 2013 and June 2016'*.

Having assessed your request in accordance with Regulation (EC) No 1049/2001 regarding public access to documents¹ (hereinafter "*the PAD Regulation*"), we would like to provide you with a reply as follows.

1. Your request for all documents which relate to checks and confirmations by EFSA experts concerning the information provided by Mr Rowland during the pesticides peer review teleconference (TC 117)

Please be informed on the fact that all background documents relating to the EFSA peer review of glyphosate are available on EFSA's website², including the report of the teleconference 117 held on 29 September 2015. You can find this report on page 1418 of the Peer Review Report, which is part of the background documents.

We should add that EFSA is not in the possession of any other documents (correspondence, briefings or meeting minutes) falling within the scope of your access request, besides the TC 117 meeting minutes available on-line. In application of the case law of the European Union Courts, a presumption of legality is attached to a statement made by an Institution concerning the non-existence of documents requested³.

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, applicable to EFSA.

² The background documents are available on EFSA's website:
<http://registerofquestions.efsa.europa.eu/roqFrontend/outputLoader?output=ON-4302>

³ See Case T-42/05, Williams v Commission, T-380/04, ECLI:EU:T:2008:325; Joined Cases T-110/03, Ioannis Terezakis v. Commission, ECLI:EU:T:2008:19; Case T-150/03, Sison v. Council [2005] CLI:EU:T:2005:143.

2. Your request concerning correspondence between EFSA and Jess Rowland in the time period between 2013 and June 2016

For what concerns your request for the correspondence between EFSA and Mr Rowland in the time period between 2013 and June 2016, please be informed that this qualifies as a request for personal information, since by the scope of your request and the content of the documents requested the person is identified in the sense of Article 2(a) of the Data Protection Regulation (EC) No 45/2001⁴. According to the settled case law of the European Union Courts⁵, the Data Protection Regulation is applicable in its entirety as concerns personal data at stake in the context of a public access to documents request. Likewise your request for the correspondence with Mr. Rowland qualifies as a request for transfer of personal data in the sense of Article 8(b) of the Data Protection Regulation and the two cumulative conditions laid down therein shall be fulfilled, namely (1) *'the recipient establishes the necessity of having the data transferred'* and (2) *'... there is no reason to assume that the data subject's legitimate interests might be prejudiced'*.

Having assessed your access request, EFSA concludes that at least the first of these conditions has not been fulfilled, since your e-mail message of 26 May 2017 does not in any way substantiate the need for you to receive the personal data. EFSA will only be able to balance the interests at stake and to consider the disclosure of the personal data documents after you have provided an express and legitimate justification and convincing arguments in order to demonstrate the necessity of having these transferred to you.

3. Confirmatory Application

To exercise your right to appeal the present decision by means of a confirmatory application, you may write to EFSA at the address below. You have fifteen working days from receipt of this letter to appeal. In case you submit a confirmatory application, EFSA will inform you of the outcome of the re-examination of your request within fifteen working days of receipt, either by granting you access to the document or by confirming the refusal. In the latter case, you will also be informed of any further appeal routes available.

Further correspondence must be sent to:

EFSA
Dirk Detken, Head of the Legal and Assurance Services
Via Carlo Magno 1/A
I – 43126 Parma
Italia

e-mail: EFSA.public.access.to.documents@efsa.europa.eu

Yours sincerely,

[SIGNED]

Dirk Detken

Cc: J. Tarazona (EFSA)

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. 1–22.

⁵ See Judgment in *European Commission v The Bavarian Lager Co. Ltd.*, C-28/08 P, EU:C:2010:378.