



## EUROPEAN COMMISSION

Directorate-General for Trade

Directorate D - Sustainable Development; Economic Partnership Agreements - African, Caribbean and Pacific; Agri-food  
Agriculture, Sanitary and Phytosanitary Market Access, Biotechnology

Brussels, **30 JUIN 2017**  
Trade.dgal.d.3/BM/ir(2017)3558277

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

Ms Nina Holland  
Corporate Europe Observatory  
Rue d'Edimbourg 26  
1050 Brussels

***Advance copy by email:***  
***[ask+request-4356-5e5183c9@asktheeu.org](mailto:ask+request-4356-5e5183c9@asktheeu.org)***

**Subject: Your application for access to documents – Ref GestDem No 2017/3340**

Dear Ms Holland,

I refer to your e-mail dated 1<sup>st</sup> of June 2017 in which you make a request for access to documents under Regulation (EC) No 1049/2001<sup>1</sup> ("Regulation 1049/2001"), registered on 2<sup>nd</sup> of June under the above mentioned reference number.

You request access to *documents which contain the following information:*

- 1. From DG Trade (Commissioner, cabinet and staff), any documents between January 2016 and now, including briefings, reports, correspondence (email or other), where the active substance glyphosate is concerned or mentioned. (Including to and from national governments and administrations; industry; farmers' unions; chambers of commerce; the US Mission to the EU; the Delegation of the European Union in Washington; the delegation of the European Union to the WTO in Geneva, etc.);*
- 2. From DG Trade (Commissioner, cabinet and staff), a list of meetings, as well as agendas and minutes or any other reports of such meetings, also between January 2016 and now, where the active substance glyphosate is concerned or mentioned. (Including with national governments and administrations; industry; farmers' unions; chambers of*

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

*commerce; the US Mission to the EU; the Delegation of the European Union in Washington; the delegation of the European Union to the WTO in Geneva, etc.).*

We have identified the three following documents that fall under the scope of your request:

- An email dated 7 September 2016 from Hume Brophy requesting a meeting between Monsanto company and Commissioner Malmström or Ms Billaux ("document 1") (Ares(2016)5118205);
- A report dated 26 September 2016 of the meeting between Monsanto company and Cecile Billaux ("document 2") (Ares(2016)5578396);
- A report dated 31 May 2017 of the meeting between DG TRADE officials and NGOs ("document 3") (Ares (2017)2739980).

I am glad to inform you that full access can be granted to the content of these documents. However, some personal data have been withheld in accordance with Article 4(1)(b) of Regulation 1049/2001. In line with the Commission's commitment to ensure transparency and accountability<sup>2</sup>, the names of the members of Cabinet (not occupying administrative positions) are disclosed. The names of the senior management of the Commission (at Director level and above) are also disclosed. Copies of the accessible documents are enclosed.

Article 4(1)(b) of Regulation 1049/2001 provides that "[t]he institutions shall refuse access to a document where 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 data<sup>3</sup>.

The Court of Justice has ruled that "where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data" "the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety"<sup>4</sup>.

Article 2(a) of Regulation 45/2001 provides that "'personal data' shall mean any information relating to an identified or identifiable natural person [...]". The Court of

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<sup>2</sup> See Commission decisions C(2014) 9051 and C(2014) 9048 of 25 November 2014.

<sup>3</sup> 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 the free movement of such data, OJ L 8, 12.1.2001, p. 1.

<sup>4</sup> Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64.

Justice has confirmed that *"there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'"*<sup>5</sup> and that *"surnames and forenames may be regarded as personal data"*<sup>6</sup>, including names of the staff of the institutions<sup>7</sup>.

In accordance with Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish *"the necessity of having the data transferred"* and additionally *"if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced"*. The Court of Justice has clarified that *"it is for the person applying for access to establish the necessity of transferring that data"*<sup>8</sup>.

I consider that you have not established the necessity of having the aforementioned personal data transferred to you. Moreover, it cannot be assumed on the basis of the information available, that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned.

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You may reuse the documents free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message. The Commission does not assume liability stemming from the reuse.

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In case you would disagree with the assessment that the withheld 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 1049/2001, 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

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<sup>5</sup> Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

<sup>6</sup> Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

<sup>7</sup> Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

<sup>8</sup> *Id.*, paragraph 107; see also judgment in C-28/08 P *Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77.

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

Yours sincerely,

[*e-signed*]

Zoltan SOMOGYI