

Parma, 26 March 2018
Ref. DD/CP/mm (2017) - out-19202833

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Re: Your request for access to documents of 8 November 2018

Our ref.: PAD 2017/099

Dear Mr Jensen,

I refer to your request of 8 November 2017, submitted from the website "*Ask the EU*", by means of which you requested access to data pertaining to the EFSA Scientific report on the avian influenza overview October 2016–August 2017¹ (hereinafter "*the Scientific Report*"), in accordance with Regulation (EC) No 1049/2001 regarding public access to documents² (hereinafter "*the PAD Regulation*").

By means of your e-mail of 30 November 2017, you clarified that you are interested in receiving all additional epidemiological data on the Avian Influenza (AI) outbreaks in poultry and captive birds that occurred from October 2016 to 30 April 2017, submitted by 19 Member States (MS)³ directly to EFSA by means of Excel files in the context of the Scientific Report (hereinafter "*the AI data*").

As per our letter of 12 December 2017, EFSA proposed you as a fair solution in application of Article 6(3) of the PAD Regulation to reply to you in a timeframe which would allow EFSA to finalise the consultations with the MS data providers, in accordance with Article 4(5) of the PAD Regulation, and the assessment of the disclosure of the AI data. Accordingly, by means of EFSA's letters of 22 January 2018 and 1 March 2018, we updated you on the progress of the consultations with the data providers.

We took due note of your email of March 4 qualified as an appeal to the proposed solution to provide you the data only upon completion of the pending consultations with all the Member States.

¹ European Food Safety Authority, European Centre for Disease Prevention and Control, European Union Reference Laboratory for Avian influenza, Brown I, Mulatti P, Smietanka K, Staubach C, Willeberg P, Adlhoch C, Candiani D, Fabris C, Zancanaro G, Morgado J and Verdonck F, 2017. Scientific report on the avian influenza overview October 2016– August 2017. EFSA Journal 2017;15(10):5018, 101 pp. <https://doi.org/10.2903/j.efsa.2017.5018>.

² 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.

³ Data was received from Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Romania, Slovakia, Spain, Sweden and the United Kingdom.

In this context, in reply to your claim to receive, even partially, the data prior the deadline set in our proposal, we are pleased to provide you a first batch of data, constituting full access to most of the requested data.

The present letter also provides you with an update on the on-going dialogue with the remaining Member States with whom the consultation with regards the accessibility of their data has not come to its conclusive end yet.

1. Full release of data from 15 Member States organisations

After consultations and clarifications with the 19 MS organisations having provided AI data, in line with Article 4(5) of the PAD Regulation, and EFSA's assessment of the accessibility of the AI data, we are pleased to grant you full access to the datasets of 15 out of 19 MS organisations, i.e. 24 out of 30 requested Excel files in EFSA's possession. In this regard we would like to highlight that, as regards the data from Finland, the killing and destruction and all other eradication measures, as indicated in the "free text" column of the Excel file, have been carried out and completed.

We hope you find the disclosed documents useful. I must remind you that all persons reproducing, redistributing, exploiting or making commercial use of this information are expected to adhere to the terms and conditions asserted by the copyright holder.

As concerns the remaining four out of 19 Member State organisations, i.e. 6 out of 30 requested Excel files in EFSA's possession, please be informed that EFSA is currently still engaging in a genuine dialogue⁴ with these Member States. However, please be assured that EFSA is further exchanging with the MS organisations with a view of enhancing transparency on the remaining 6 out of the 30 requested Excel files in EFSA's possession.

Accordingly, we will provide you with a complementary reply on the accessibility of the Excel files of the four Member States by **19 April 2018 at the latest**.

Finally, as you may know, countries around the world, including EU MS, are reporting data on Avian Influenza outbreaks and other animal diseases to the World Organisation for Animal Health (OIE), an intergovernmental organisation responsible for improving animal health worldwide. The data notified to the OIE by its country Members⁵ is then made publicly available in the EMPRES Global Animal Disease Information System (EMPRES-i). EMPRES-i is a web-based application which provides updated information on global animal disease distribution and current threats at the national, regional and global level for priority animal diseases.⁶ Please however note that the data notified to EFSA is not identical to the one shared with OIE, but may be useful for your researches.

2. Confirmatory application

To exercise your right to appeal against this decision of partial disclosure by a confirmatory application, you may write to EFSA at the address below. You have fifteen working days from receipt of this letter to appeal. Beyond this deadline, your initial request will be considered as satisfied. Please note that you can also exercise your right to appeal against this decision after your request for public access to documents has been fully addressed, i.e. after the final reply on your pending request has been sent to you. In case you submit a confirmatory application, EFSA will inform you of the outcome of this re-examination of your request within fifteen working days of receipt, either by granting

⁴ Judgment in Case C- 64/05 P, *Sweden v Commission* (EU:C:2007:802), paragraphs 85 to 89.

⁵ 181 Member Countries, see <http://www.oie.int/en/about-us/>.

⁶ You can access the EMPRES-i application on the website of the Food and Agriculture Organisation of the United Nations (FAO): <http://empres-i.fao.org/eipws3g/>.

you access to the documents 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

IT – 43126 Parma

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

Yours sincerely,

[SIGNED]

Dirk Detken

Encl.: CD-ROM

Cc: N. Kriz (EFSA)