



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Director-General

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

Ms Vicky Cann  
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***Advance copy by email:***

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Dear Ms Cann,

**Subject: Your applications for access to documents – Ref. GestDem No 2017/7634 and 2018/91**

We refer to your requests for access to documents, registered on 22/12/2017 and 05/01/2018 under the above mentioned reference numbers.

**1. Scope of your request**

- i. *the minutes/reports of all lobby meetings held by DG Sante in 2017 where endocrine-disrupting chemicals were discussed with one or more of the following organisations: European Chemical Industry Council (Cefic), European Crop Protection Association (ECPA), PlasticsEurope, Cosmetics Europe, BASF, Bayer, European Centre for Ecotoxicology and Toxicology of Chemicals (ECETOC), Syngenta, EPPA SA, Croplife, Huggard Consulting, Weber Shandwick, Fleishman-Hillard, Burson-Marsteller, American Chamber of Commerce to the European Union (AmCham EU), US Mission to the EU, or any organisation or consultancy firm representing any of these actors (GestDem 2017/7634).*
- ii. *a list of all lobby meetings held by DG Sante in 2017 where endocrine-disrupting chemicals were discussed (GestDem 2017/7634).*
- iii. *the voting list for the 13 December 2017 vote on draft rules for identifying endocrine-disrupting chemicals in pesticides by the Standing Committee on Plants, Animals, Food and Feed (PAFF), and the voting lists for all previous votes during 2016 and 2017 where endocrine-disrupting chemicals were voted upon (GestDem 2018/91).*

## **2. Identification and assessment of the concerned documents**

We have identified three documents falling under the scope of your request. Having examined the documents, we have come to the conclusion that:

- i. partial access can be granted to one document and indicated with "Partial" in the list of document and numbered 1;
- ii. two documents numbered 2 and 3 and indicated with "No" in the list of documents are protected in their entirety.

You will find in annex to this letter the document that is labelled with the indication "Partial" as well as a table with the list of documents containing the result of the assessment carried out on their content on the basis of Regulation (EC) No 1049/2001.

You may re-use Commission 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 of the documents.

## **3. List of lobby meetings where endocrine-disrupting chemicals were discussed**

In addition to document 1 which concerns a meeting between Cabinet Andriukaitis (Nathalie Chaze) and Bayer on 29 March 2017, we have identified five additional meetings during 2017 where endocrine-disrupting chemicals were discussed as one topic among others, namely:

1. Meeting between DG SANTE Unit E.4 and D.3 and the Minister Counsellor Agriculture at the South African Embassy on 6 March 2017, Ares(2017)1290407;
2. Meeting between DG SANTE Director Sabine Jülicher and Canadian representatives on 22 March 2017, Ares(2017)1591309;
3. Meeting between Cabinet Andriukaitis (Arunas Vinciunas) and German farmers association (DBV) on 15 June 2017, Ares(2017)4300577;
4. Meeting between DG SANTE Director Sabine Jülicher and BEUC on 11 July 2017, Ares(2017)3510375;
5. Meeting between DG SANTE Unit E.4 and BEUC on 24 July 2017, Ares(2017)3731848.

## **4. Reasons for refusal**

We regret to inform you that we cannot grant access to documents 2 and 3 containing the votes of each of the Member States at the Standing Committee. The exceptions of Article 4 of Regulation (EC) No 1049/2001 must be interpreted taking into account the specific provisions which apply to access to information and confidentiality in the context of *comitology* procedures.

The Standard Rules of Procedures for Committees<sup>1</sup> and the Rules of procedure for the appeal committee<sup>2</sup>, which the Commission adopted pursuant to Article 9 of Regulation (EC)

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<sup>1</sup> OJ C 206, 12.7.2011, p. 11.

<sup>2</sup> OJ C 183, 24.6.2011, p. 13.

No 182/2001<sup>3</sup>, explicitly exclude the positions of individual Member States from public access. In fact, Articles 10(2) and 13(2) of the Standard Rules of Procedure and Articles 9(2) and 12(2) of the Rules of procedure for the appeal committee affirm, respectively, that summary records of the meetings shall not mention the position of individual Member States in the committee's discussions and that the committee's discussions shall be confidential.

It follows that the Commission cannot provide information containing references to the individual Member States that expressed opinions in the framework of committee meetings, as this would result in the above-mentioned confidentiality requirement being deprived of its meaningful effect.

In its *Corporate Europe Observatory* judgment<sup>4</sup>, the General Court confirmed that minutes circulated to participants in the framework of an advisory committee meeting which was not open to the public, are to be considered as "*internal documents*" within the meaning of Article 4(3) of Regulation (EC) No 1049/2001 and deserve protection on that basis. The same reasoning applies, *a fortiori*, to the positions of Member States expressed in the framework of Standing Committee meetings.

In fact, the Member States and the Commission must be free to explore all possible options in preparation of a decision within Standing Committees free from external pressure. Public disclosure of the references to individual Member States would prevent Member States from frankly expressing their views in the framework of Standing Committee meetings and thus seriously undermine the possibility of the Commission to explore all possible options in preparation of a decision and impair the quality of the decision-making process. Therefore, public access to references to individual Member States would seriously undermine the Commission's decision-making process.

## **5. Overriding public interest**

The exceptions to the right of access provided for in Article 4(3) 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 ground 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's decision-making process.

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<sup>3</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

<sup>4</sup> Judgment of the General Court of 7 June 2013 in case T-93/11, *Stichting Corporate Europe Observatory v European Commission*, paras 32-33.

## 6. Protection of personal data

Document 1 contains personal data, such as the names, email-addresses and telephone numbers of non-managerial staff of the European Commission. 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 45/2001<sup>5</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable.<sup>6</sup> 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 of personal data.

## 7. Means of redress

Should 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 document or your request will be rejected, in which case you will be informed of what further action is open to you.

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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,



Xavier Prats Monné

<sup>5</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 on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

<sup>6</sup> 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-06055.