EUROPEAN COMMISSION

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[redacted]
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DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE IMPLEMENTING RULES TO REGULATION (EC) N° 1049/2001[1]

Subject: **Your confirmatory application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2018/5253**

Dear [redacted],

I refer to your e-mail of 19 November 2018, registered on 20 November 2018, in which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents[2] (hereafter 'Regulation 1049/2001').

In your initial application of 5 October 2018, you requested access to:

- 'Data Matching Lists related to Acetamiprid-based products;
- [the Dutch Board for the Authorisation of Plant Protection Products and Biocides] assessment on the Data Matching Lists related to Acetamiprid-based products;
- [p]ossible 'category 4' justifications raised by the applicant for renewal of authorisations;
- [j]ustifications that the new draft Registration Reports match the so-called 'Article 29 conditions' (referring to Regulations (EU) No 283/2014 and 284/2014)'.

1 Official Journal L 345 of 29.12.2001, p. 94.
2 Official Journal L 145 of 31.5.2001, p. 43.

In its initial reply dated 24 October 2018, the Directorate-General for Health and Food Safety informed you that it was not able to handle your request, as the European Commission did not hold any document that would correspond to the description given in your application.

In your confirmatory application, you request a review of this position.

You state that according to Article 39(2) of Regulation 1107/2009, Member States shall make available to the Commission a file containing the documentation related to the application for authorisation.

I would like to point out, in this respect, that this is done only on request and not automatically.

You also state that, according to the 'Guidance Document on the Renewal of Authorisations according to Article 43 of Regulation (EC) No 1107/2009' (SANCO/2010/13170), the zonal Rapporteur Member State (RMS) should upload the final renewal report on the CIRCABC[3] site. In this case, the Netherlands, the Rapporteur Member State (i.e. the Board for the Authorisation of Plant Protection Products and Biocides[4]) had not done so at the time of your request.

Following your confirmatory application, the Commission carried out a renewed, thorough search for documents which would fall under the scope of your request. Based on this renewed search, I confirm that the Commission has not identified any document held by it that would fall under the scope of your request.

As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution. Given that no document falling under the scope of your initial request has been identified at the confirmatory stage, the Commission is not in a position to handle your confirmatory application. We invite you to address your request for access to documents to the Dutch Board for the Authorisation of Plant Protection Products and Biocides itself.

[3] CIRCABC (Communication and Information Resource Centre for Administrations, Businesses and Citizens) is a web-based service provided by the European Commission used to create collaborative workspaces. It is divided into categories and interest groups, allowing people in those groups to share information and resources.

[4] Usually abbreviated as 'Ctgb'.

Finally, I would like to draw your attention to the means of redress that are available against this decision, that is, judicial proceedings and complaints to the Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION

For the Commission
Martin SELMAYR
Secretary-General