



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

The Director-General

Brussels,
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**By registered letter with
acknowledgement of receipt¹**

Mr Tim Luimes, MrTomas Vanheste
The Investigative Desk
Gaasterlandstraat 3-5
1079 RH Amsterdam
The Netherlands

Advance copy by email:
[ask+request-8969-
26df676c@asktheeu.org](mailto:ask+request-8969-26df676c@asktheeu.org)

Dear Mr Luimes and Mr Vanheste,

Subject: Your application for access to documents – Ref GestDem No 2021/0479

We refer to your email dated 26 January 2021 in which you make a request for access to documents on the basis of Regulation (EC) No 1049/2001² (or ‘the Regulation’), registered on the same date under the above-mentioned reference number. We refer also to our e-mail of 16 February 2021, extending the deadline for handling the application.

1. Scope of your request

In your request, you ask access to:

“All emergency authorisations since 29 May 2018 for the three substances thiamethoxam, imidacloprid and clothianidin, of which the use was restricted by the regulations 2018/783, 2018/784 and 2018/785 of 29 May 2018.

What we are looking for are all the documents concerning these emergency authorisations that were prepared inside and/or exchanged between one of the following organisations:

¹ According to standard operational procedure, the reply is usually also sent to you by registered post. Please note, however, that due to the extraordinary health and security measures currently in force during the COVID-19 epidemics, which include the requirement for all Commission non-critical staff to telework, we are unfortunately not in a position to follow this procedure until further notice. We would therefore appreciate if you could confirm receipt of the present e-mail.

² Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

- * *DG Health and Food Safety*
- * *DG Environment*
- * *DG Agriculture*
- * *DG Trade*
- * *The Standing Committee on Plants, Animals, Food and Feed (SCoPAFF)*
- * *The European Food and Safety Authority (EFSA)*
- * *The companies Bayer, BASF, Syngenta en Corteva that use one of the three substances in their plant protection products*
- * *Tereos, Royal Cosun, SESVanderHave and other sugarbeet companies*
- * *The European Crop Protection Association (ECPA), COPA-COGECA and other lobby organisations”*

2. Assessment of the documents

We have identified 26 documents falling under the scope of your request.

Since some documents originate from a third party in accordance with Art. 4 (4) of Regulation, the originators of the documents have been consulted in order to assess whether an exception established in Article 4 applies to these documents.

Having examined the document under the provisions of Regulation (EC) No 1049/2001 and considered the opinion of the third party, we have come to following conclusion, which is further explained below:

- full access can be given to 1 document, number 23;
- partial access can be granted to 17 documents (documents numbered 1 to 17) as their full disclosure is prevented by one of the exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001;
- 8 documents (numbered 18-22 and 24-26) are publicly available on the Europa websites and you can access them by clicking to the following links:
 - Document 18
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20180719_ppl_su_m.pdf
 - Document 19
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20181023_ppl_su_m.pdf
 - Document 20
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20181212_ppl_su_m.pdf
 - Document 21
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20190124_ppl_su_m.pdf
 - Document 22
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20190124_ppl_su_m.pdf
 - Document 24

- https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20190520_ppl_sum.pdf
- Document 25
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20190716_ppl_sum.pdf
- Document 26
https://ec.europa.eu/food/sites/food/files/plant/docs/sc_phyto_20191021_ppl_sum.pdf

Some part of documents 4 and 17 have been redacted as they fall outside of scope of the request.

The documents that can be fully or partially released and the list of documents containing the result of the assessment carried out on their content on the basis of Regulation (EC) No 1049/2001 are published on the following Commission webpage:

<https://webgate.ec.europa.eu/dyna/extdoc>

You can view these documents by entering the GestDem reference of your request ("2021/0479") in the search box at the top of the page.

Alternatively, you can click on "view documents per request" and search on the left column for the GestDem reference of your request ("2021/0479").

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the documents disclosed free of charge and 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. Please note that the Commission does not assume liability stemming from the reuse.

Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

3. Protection of personal data

Protection of the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data - Article 4(1)(b) of Regulation (EC) No 1049/2001

With regard to documents No. 1 to 17, a complete disclosure is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;

- the names/initials and contact details of other natural persons;
- handwritten signatures.

Article 9(1)(b) of the Data Protection Regulation³ does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

Therefore the above-listed documents are disclosed redacted of the parts containing personal data.

4. Means of redress

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled 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
Secretariat-General
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Bruxelles,
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

[e-signed]
Sandra GALLINA

³ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.