Subject: Your application for public access to documents – GestDem Ref No 2021/5421

Dear Mr Völker,

We refer to your message dated 02 September 2021 in which you submitted an application for access to documents within the framework of Regulation (EC) 1049/2001.

1. **Scope of your request**

You requested access to the

- Grant Agreement Annex 1 "Description of the Action" (all parts, A, B, etc.) of the project concluded under Horizon H2020-Euratom-1 having the ID 945098 and the name PRE-DISposal management of radioactive waste, hereinafter PREDIS;

As well as

- documents that outline the configuration of the management and guidance entities of the project (e.g. steering group, advisory board).

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We have identified one document falling under the scope of your request (hereinafter the 'requested document') that includes the Description of Action as well as the configuration of the management of the project, both included in Annex 1 of the Grant Agreement.

2. **EXAMINATION UNDER REGULATION (EC) NO 1049/2001**

We regret to inform you that access cannot be granted to the document, as explained below.

2.1 **Protection of commercial interests of a legal person**

Article 4(2), first indent, of Regulation (EC) 1049/2001 provides that "[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure".

The document requested contains information related to the business activity of the participants to the project PREDIS and the intellectual property generated during the project. The public disclosure of this information might undermine the commercial interests of the participants to the project.

Article 4(2), first indent, of Regulation (EC) 1049/2001 (protection of commercial interests) applies unless there is an overriding public interest in disclosure of the document requested. In order for such an overriding public interest to exist, this interest, firstly, has to be public and, secondly, overriding, i.e. it must outweigh the interest protected under Article 4(2), first indent. In the present case, we consider that there are no elements generating an overriding public interest in disclosure of the refused document that would outweigh the protection of the commercial interests.

However, in this particular case, where the owner of the requested document is the consortium of the project, please note that, in accordance with the consortium agreement concluded among the 47 participants to the project PREDIS, a voting procedure has started, having the purpose to decide on the publication of this document.

It is therefore possible that at the end of the voting procedure the Consortium may decide to change the decision of not disclosing the whole version of Annex 1 of the grant agreement. Therefore, we would invite you to submit a new request for the document after a period of minimum 30 days from receiving this reply.

2.2. **No meaningful partial access to the requested document**

In accordance with Article 4(6) of Regulation 1049/2001, we have considered the possibility of granting partial access to the requested document.
However, we concluded that no meaningful partial access could be granted without undermining the interests described above.

3. **MEANS OF REDRESS**

In accordance with Article 7(2) of Regulation (EC) 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**  
Secretary-General  
Unit SG C.1 – Transparency, document management & access to documents  
BERL 7/076  
B-1049 Brussels  
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Jean-Eric Paquet