



**EUROPEAN COMMISSION**

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP  
AND SMES

The Director-General

Brussels  
GROW.I.2/SP

Mr Peter Teffer  
Ekko Voorkamer  
Bemuurde Weerd WZ 3  
3513 BH Utrecht  
The Netherlands

*Sent by email only to:*

[ask+request-9778-  
ebbe0093@asktheeu.org](mailto:ask+request-9778-ebbe0093@asktheeu.org)

**Subject: Request for access to documents – GestDem No. 2021/4613**

Dear Mr Teffer,

Thank you for your e-mail of 19 July 2021 which was registered at the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs of the European Commission on the same day, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

**1. SCOPE OF YOUR REQUEST**

Your e-mail requested access to documents as follows:

*Documents which contain the following information:*

- *All communications between the European Commission and the Dutch 'Inspectie Leefomgeving en Transport' (Human Environment and Transport Inspectorate) about market surveillance activities from Regulation (EU) 2018/858 (motor vehicles)*
- *The 27 overviews of planned market surveillance checks of each Member State, as required by article 8.6 Regulation (EU) 2018/858 - including those received prior and after the deadline of 1 March 2021.*

As your e-mail did not specify a time scope, we have considered documents with a date up to and including 19 July 2021.

## 2. IDENTIFICATION OF THE DOCUMENTS

Regarding the first part of your request, on 24 February 2021 the Commission has received from Dutch 'Inspectie Leefomgeving en Transport' (Human Environment and Transport Inspectorate) an overview of the planned market surveillance checks, in accordance with Regulation (EU) 2018/858, Article 8(6).

Regarding the second part of your request, by 19 July 2021 the Commission has received an overview of the planned market surveillance checks, in accordance with Regulation (EU) 2018/858, Article 8(6), from the following Member States.

Date	Member State
01.07.2020	Slovakia
05.10.2020	Luxembourg
18.02.2021	Estonia
24.02.2021	The Netherlands
25.02.2021	Denmark
25.02.2021	Spain
01.03.2021	Sweden
01.03.2021	Hungary
01.03.2021	Germany
01.03.2021	France
09.03.2021	Finland
30.03.2021	Greece
14.04.2021	Slovenia
20.04.2021	Finland (update)
04.05.2021	Austria
10.05.2021	Spain (update)
21.05.2021	Latvia
26.05.2021	Lithuania

### **3. NON-DISCLOSURE OF THE DOCUMENTS**

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that access to the identified documents cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(2), third indent of this Regulation ("The institutions shall refuse access to a document where disclosure would undermine the protection of [...] - the purpose of inspections, investigations and audits").

These documents contain sensitive and confidential information on the vehicles that will be checked and the tests that Member States will perform on those vehicles. Making this information public would have a negative impact on the carrying out of market surveillance activities by the Member States concerned.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the document concerned, which outweighs the interest protected by the exception to the right of access. In this case the Commission has reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

The possibility of granting partial access in accordance with Article 4(6) of Regulation (EC) No 1049/2001 has also been examined. However, this is not considered possible since the documents in question are covered in their entirety by the above-mentioned exception.

### **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 Secretariat-General of the Commission at the following address:

European Commission  
Secretariat-General  
Transparency, Document Management & Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

(e-signed)  
Kerstin Jorna