



Lyndsay Eccleston

ask+request-9849-61542d97@asktheeu.org

Stockholm, 20 August 2021

Our ref.: PHF-2021-OUT-3534-VLEIKh

Dear Ms Eccleston,

Re: Your application for access to documents – Ref 21-4509

We refer to your e-mail dated 16 August 2021 sent through AskTheEU in which you make a request for access to documents, registered on 17 August 2021 under the above mentioned reference number.

We regret to inform you that no documents were found that would correspond to the description given in your application.

Indeed, 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. We would like to refer in this respect to the judgment of the Court in Case T-221/08, according to which '*[n]either Article 11 of Regulation No 1049/2001 nor the obligation of assistance in Article 6(2) thereof, can oblige an institution to create a document for which it has been asked to grant access but which does not exist*'.

Given that no such documents have been identified, ECDC is not in a position to handle your request.

We invite you to explore the Surveillance Atlas of Infectious Diseases available at <https://www.ecdc.europa.eu/en/surveillance-atlas-infectious-diseases> as it might provide some of the information that you requested. Furthermore, we would like to bring to your attention the possibility of introducing a request for access to subsets of data of the European Surveillance System (TESSy). This process is separate and different from public access to documents. Access to data from TESSy can be granted for research purposes. At <https://www.ecdc.europa.eu/en/publications-data/european-surveillance-system-tessy> you will find information about who has the right, as well as how to access and use data from TESSy.

Means of redress

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting ECDC's Director to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the following address:

ECDC
Legal Services
Gustav III:s Boulevard 40
16973 Solna
Sweden

or by email to: confirmatory.requests@ecdc.europa.eu.

Yours faithfully,

Vicky Lefevre

Vicky Lefevre
Head of Unit Public Health Functions