



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY
Food and feed safety, innovation
E1 - Food information and composition
Head of Unit

Brussels,
SANTE/E1/ (2022)122819

By email only:
ask+request-10436-
cff3de94@asktheeu.org

Dear Ms Wolput,

Subject: Your application for access to documents - GestDem No 2022/0030 (DG SANTE), GestDem No 2022/0206 (DG TRADE) and GestDem No 2022/0207 (DG GROW) – Fair solution proposal

We refer to your e-mail of 04 January 2022 in which you make a request for access to documents, registered on the same date under the abovementioned reference Gestdem 2022/0030.

We also refer to our email of 12 January 2022 informing you of the split of your request among DG SANTE, DG TRADE and DG GROW under the abovementioned Gestdem reference numbers.

Based on Regulation (EC) No 1049/2001, you requested access to the following documents:

“- all documents containing any reference to the THE INTERNATIONAL CODE OF MARKETING OF BREAST-MILK SUBSTITUTES of the WHO.

- all e-mails and any other correspondence from Nestlé, Nutricia or other companies to members of the European Commission, concerning the THE INTERNATIONAL CODE OF MARKETING OF BREAST-MILK SUBSTITUTES of the WHO.”.

We also refer to your reply of 19 January 2022 to the clarification request sent by DG GROW with reference to the Gestdem 2022/207, in which you clarified the temporal scope of your request, as referring to the time-frame from 1 January 1981 to 31 December 2000.

Please note that documents older than 30 years require a physical search in the Archives and therefore extra time for the identification.

The first search, which focused on a three-year period ('81, '82, '83) led to the identification of around 40 documents. The processing of your request, as refined with your reply to the clarification request, concerns a very large number of documents, still in the process of being identified, which need to be assessed individually.

Therefore, the identification and the detailed analysis of all the documents falling within the temporal scope of your request would entail a disproportionate workload.

However, the Regulation also provides for a possibility to confer informally with applicants in order to find a fair solution when an application relates to a very long document or concerns a very large number of documents (Article 6(3)).

It follows that, according to our preliminary estimation, a maximum of approximately 40 documents can be handled.

Therefore, we would appreciate if you could limit your request to a three-year period time-frame with a maximum of 40 documents and if you could confirm that the period 1981-1983 is the period you are most interested in. If not, please also indicate which three-year period you would be more interested in, considering however that we would be able to process 40 documents as a maximum.

In order to enable us to respect the time limits of Regulation (EC) No 1049/2001, we ask you for a reply to our invitation to propose a fair solution, **within five working days** by email to sante-consult-e1@ec.europa.eu and SANTE-ACCESS-TO-DOCUMENTS@ec.europa.eu.

You may write to the same email addresses, should you have any questions concerning this invitation.

In the absence of a reply within five working days, we will unilaterally restrict the scope of your application to those parts that can be dealt with within a reasonable amount of days, using the period 1981-1983 as a reference.

Thank you in advance for your understanding.

Yours sincerely,

Sabine PELSSER

