



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

The Director-General

Brussels
SANTE.E.1/(2022)2098789

***By registered letter with
acknowledgment of receipt¹***

Ms Gitte Wolput
Serigiersstraat 20,
2020 Antwerp
Belgium

advanced copy email:
ask+request-10436-
cff3de94@asktheeu.org

Dear Ms Wolput,

Subject: Your application for access to documents – Ref GestDem 2022/0030

We refer to your e-mail of 4 January 2022 in which you make a request for access to documents, registered on the same day under the above-mentioned reference number.

We also refer to your reply of 18 February 2022 to our fair solution proposal of 17 February 2022, limiting the scope of your request according to Article 6(3) of Regulation (EC) No 1049/2001.

Lastly, we refer to our letter of 25 January 2022 extending the time limit to respond to your request according to Article 7(3) of Regulation (EC) No 1049/2001.

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of other Directorates-General, parts of your request have been attributed to other Directorates-General². This reply relates only to the documents held by the Directorate-General for Health and Food Safety.

1. Scope of your request

In your request, you ask, on the basis of Regulation (EC) No 1049/2001³, access to:

“all documents containing any reference to the International Code of Marketing of breast-milk substitutes of the WHO and all e-mails and any other correspondence from Nestlé, Nutricia or other companies to members of the European Commission, concerning the International Code of Marketing of breast-milk substitutes of the WHO”.

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 DG TRADE Gestdem 2022/0206 and DG GROW Gestdem 2022/0207;

³ Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

In your reply to our fair solution proposal mentioned above you specified the following:

“Would it be possible to add '84, with a limit of in total 40 documents? So 81', '82, '83 and '84?”

The reason of my request is that I am looking for examples of lobbying by the industry to prevent a strict(er) regulation of formula milk concerning advertisement etc.”.

2. No documents held

We regret to inform you that the Commission does not hold any documents that would correspond to the description based on the fair solution reply where you clarified that your request for documents from companies and lobbies would be limited to the years 1981, 1982, 1983 and 1984.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution. Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

You will find attached for your convenience the list of documents provided by the Historical Archives of the European Commission concerning the agreed time-frame 1981-1984.

Based on our assessment of the scope of your request, all the documents retrieved from the Historical Archives do not refer to companies and lobbies and hence do not fall within the scope.

Should you consider any of the documents relevant for your scope, please feel free to file a new access to document request indicating which of the documents you might be interested in.

Should none of the listed documents be of your interest, our Historical Archives can also provide you with the opportunity to visit their premises, to make a physical search.

Should you wish to do so please contact our Historical Archives at the following email address OIB-ARCHIS-BASE@ec.europa.eu.

3. 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 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

[e-signed]
Sandra GALLINA