



EUROPEAN COMMISSION

Secretariat-General

Directorate E - Policy Co-ordination II
The Director

Brussels, 20/09/2016.
SG/E/JM/WS/SF

Mr. V. Harmsen
Rue Auguste Lambiotte 39-1
1030 Schaerbeek
Belgium

Per email: ask+request-3195-e6d2e389@asktheeu.org

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2016/4447

We refer to your e-mail dated 05/08/2016 in which you make a request for access to documents, registered on 08/08/2016 under the above mentioned reference number.

You request the following documents: *"All correspondence (including emails), agendas, minutes of meetings or any other reports of such meetings where the (process of drafting the) scientific criteria for the determination of endocrine disrupting properties was/were (explicitly or implicitly) discussed/mentioned between officials of the Secretariat General (between March 2016 and July 2016). When 'officials' are mentioned in this request this includes the Commission President and his Cabinet members."*

I refer you to the publically-available minutes of the meeting of the College of 15 June 2016 where the matter referred to in your access to document request was discussed.¹

In addition, your application concerns the following documents:

- 1) Invitation to a special meeting of the heads of cabinets on 10 June 2016 - SG-CAB No. 101 (RSCC);
- 2) Draft documents distributed for the purpose of that meeting;
- 3) Minutes of the special meeting of the heads of cabinets on 10 June 2016 (RCC(2016)82);
- 4) Draft documents distributed for the purpose of the weekly meeting of the heads of cabinets on 13 June 2016;
- 5) Results of the weekly meeting of the heads of cabinets on 13 June 2016 (RCC(2016)2173).

Document under 1:

¹ http://ec.europa.eu/atwork/decision-making/weekly-meetings/index_en.htm

The document you requested is enclosed, expunged of personal data, in particular name and contact details of individuals.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.²

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable.³

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

You are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position (see below).

Documents under 2 to 5:

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The documents which you seek to obtain relate to the decision on setting criteria for identifying endocrine-disrupting substances. A decision to this effect has not been taken by the Commission.

Disclosure of the documents requested would undermine the protection of the decision-making process of the Commission. It would reveal views and discussions which were held in the run-up to the setting of criteria for identifying endocrine-disrupting substances. This decision-making is still ongoing: the draft Commission measures are currently being discussed with Member States experts and representatives of Member States in the Standing Committee. While the related Communication has been adopted, its content is inextricably linked with the discussions on the draft criteria. Granting access would reveal preliminary views and policy options which are currently under consideration. The Commission's services must be free to explore all possible options in preparation of a decision free from

² Official Journal L 8 of 12.1.2001, p. 1.

³ Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

external pressure. Therefore the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to these documents.

We have considered whether partial access could be granted to the documents requested. However, it appears that the remaining parts after expunging the confidential information would be meaningless or illegible.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. However, it is not apparent how a public interest outweighs the harm disclosure would cause, considering that the draft criteria have been published in the meantime and are thus publically accessible.

In accordance with Article 7(2) of Regulation 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, Transparency unit SG-B-4, BERL 5/282, B-1049 Brussels, or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

A handwritten signature in black ink, appearing to read 'JH/Morrison', with a large, sweeping flourish above it.

James Morrison
Director

Enclosure