

EUROPEAN COMMISSION

SECRETARIAT-GENERAL

Directorate B
The Director

Brussels,

SG.B.5/EK/psi – sg.dsg1.b.5(2013)3447057

Mr Pascoe Sabido
Corporate Europe Observatory
Rue d'Edimbourg 26
1050 Bruxelles

By e-mail only:

ask+request-512-11492174@asktheeu.org

Subject: Your application for access to documents pursuant to Regulation No. 1049/2001 – GestDem N° 2013/3867

Dear Mr Sabido,

I refer to your e-mail dated 3 September 2013 in which you make a request for access to documents, registered on 16 September 2013 under the above mentioned reference number.

You have requested the following documents:

“1) All instances over the last five years whereby the European Commission (or relevant DG) has flagged up a conflict of interest of one of the members of an expert group or similar entity.

2) All instances whereby the aforementioned flagged interest subsequently led to a member being excluded from a particular meeting or from the relevant expert group.”

We have identified the following documents as corresponding to your request:

DG AGRI:

- Meeting minutes of sub-groups of the Expert Group for Technical Advice on Organic Production (EGTOP)
 1. Sub-group on feed, Minutes meeting of 14-15 April 2011, publicly available on AGRI website
 2. Sub-group on plant protection products, Minutes meeting of 5-6 October 2011, publicly available on AGRI website
 3. Sub-group on food, Minutes meeting of 24-26 April 2012, publicly available on AGRI website
- Specific invitation letters to members of expert groups named above
 4. Invitation to Sub-group meeting on Feed of the Expert Group for Technical Advice on Organic Production of 28 March 2011
 5. Invitation to the Sub-group meeting on Food of the Expert Group for Technical Advice on Organic Production of 22 March 2012

6. Invitation to Sub-group meeting on Kaolin, Laminarin and Sodium Hypochlorite of 20 September 2011

- In addition, the final reports on feed, plant protection products and food contain an acknowledgments page which clearly indicates that some experts did not participate in the entire discussions for reasons of declaration of interest.
7. Report on feed, publicly available on AGRI website
 8. Report on plant protection products, publicly available on AGRI website
 9. Report on food, publicly available on AGRI website

DG ENV:

10. Meeting summary of 4th Meeting of the Working Group on No Net Loss of Ecosystems and their Services

DG ELARG

11. Pre-qualification evaluation, DG ELARG. Please note providing that a better-quality copy was not possible. The black parts in the table do not concern the content of your request.
12. Note of 4 October 2012 by DG ELARG on change in evaluation committee composition

DG MARE:

13. Note to Secretary General with annex of 29 May 2012

DG JRC:

14. Minutes of ESAC meeting No. 34 - 22-23 March 2011, publicly available on JRC website
15. Minutes of ESAC meeting No. 35 - 04-05 November 2011, publicly available on JRC website
16. Minutes of ESAC meeting No. 36 - 20-21 March 2012, publicly available on JRC website
17. Specific Conflicts of Interest ESAC 34

I am pleased to announce that the documents 1-5, 7-10, 13-16 can be fully disclosed. Please find enclosed copies of the documents requested.

Concerning the documents 6, 11, 12 and 17, please note that documents can be partially disclosed by redacting personal data from the documents. The personal data in document 6 concerns the name and e-mail address of a member of the EGTOP expert group. The personal data in the document 11 include the names, functions and signatures of individuals and companies involved in a tender procedure. The personal data in document 12 concerns the names of evaluators of tenderers, companies concerned, and of Commission officials. The personal data in the document 17 concerns the name of a person employed by the company Givaudan.

The personal data have been deleted pursuant to the exception set out in Article 4(1) (b) of Regulation 1049/2001, according to which *[t]he institutions shall refuse access to a document where 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 45/2001¹. The Court of Justice has confirmed that *"where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation 45/2001 become applicable in their entirety, including Articles 8 and 18 thereof"*². Pursuant to Regulation 45/2001, personal data must be processed fairly and lawfully. Any processing must be necessary and proportionate for a specific purpose.

Furthermore, pursuant to Article 8(b) of Regulation 45/2001, the Commission can only transmit personal data to a recipient subject to Directive 95/46/EC if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced³. Since nothing in your request shows the necessity of having these data transmitted to you, we consider that, in this case, the necessity of disclosing the abovementioned data is not demonstrated.

Consequently, the disclosure of the names of natural persons referred to above has to be refused pursuant to Article 4(1) (b) of Regulation 1049/2001.

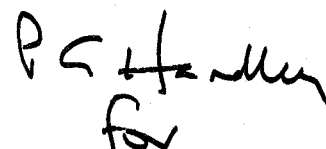
If you wish to receive these personal data, we invite you to provide us with arguments demonstrating the necessity for having these personal data transferred to you and the absence of adverse effects to the legitimate interests of the data subjects.

In case you would disagree with our assessment, 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.

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
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu.

Yours sincerely,



Hubert Szałasewski
Director

¹ 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 of the free movement of such data, OJ L 8 of 12.1.2001, p1.

² Judgment of 29.6.2010 in Case C-28/08 P, *Bavarian Lager*, paragraph 63.

³ *Bavarian Lager* judgment, paragraph 78.