



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
ENVIRONMENT  
Directorate B - Circular Economy & Green Growth  
ENV.B.2 - Sustainable Chemicals

Brussels,  
ENV.B.2

***By registered letter with acknowledgment of receipt***

Vicky Cann  
CEO  
Rue d'Edimbourg 26  
Bruxelles 1050

***Advance copy by email:***  
[ask+request-7298-5d80c9a0@asktheeu.org](mailto:ask+request-7298-5d80c9a0@asktheeu.org)

Dear Ms Cann,

**Subject: Your application for access to documents: Ref GestDem No 2019/5372**

We refer to your e-mail dated 19/09/2019 in which you make a request for access to documents, registered on 20/09/2019 under the above-mentioned reference number and to our holding reply Ref. Ares(2019)6312302 - 11/10/2019.

*You requested access to “...a list of all lobby meetings held with DG Environment, since 8 March 2019, where the classification of titanium dioxide (TiO<sub>2</sub>) was discussed. The list should include the names of the individuals and organisations attending; the date; and any agendas / minutes / notes produced. I would additionally like to receive any position papers, emails, or other correspondence which relates to the classification of titanium dioxide (TiO<sub>2</sub>).*

*This request should include all open meetings of CARACAL.”*

In your request, you ask for a “list of all lobby meetings held with DG Environment (...)”. You also ask for specific data that “the list should include”. I note that in your request you refer to Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents. We inform you that we do not have such a list and therefore that request does not refer to an existing document. Therefore, your request in that regard does not qualify as an application for access to documents under Regulation 1049/2001. Nevertheless, we inform you that we have identified the following meeting:

-16/09/2019: meeting between officials of DG ENV, DG GROW and Toy Industries of Europe

Please also note that we do not consider open sessions of CARACAL meetings [Meetings of Competent authorities for REACH and CLP (CARACAL)] as “lobby meetings”. Nevertheless, documents submitted by organisations in the context of these sessions of CARACAL meetings have also been identified.

Please see in the Annex to this letter a list of the documents that are in the scope of your request.

Having examined these documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, we have come to the following conclusions:

### **1. Full disclosure**

The documents referred to under numbers **1, 2, 7, 8** in the attached Annex are disclosed in their entirety.

### **2. Partial disclosure**

The documents referred to under numbers **3, 4, 5, 6, 9, 10, 11, 11a, 12, 13, 13a, 14, 15, 15a, 16, 16a, 17, 18, 19, 20, 21** in the attached Annex contain personal data, in particular names, signatures, addresses, telephone numbers, email addresses, which have been redacted. 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 European Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (‘Regulation 2018/1725’).

Indeed, Article 3(1) of Regulation 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data<sup>1</sup>.

Please also note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data<sup>2</sup>.

---

<sup>1</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, ECLI:EU:C:2017:994.

<sup>2</sup> Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, paragraphs 43-44, ECLI:EU:T:2018:560.

In its judgment in Case C-28/08 P (Bavarian Lager)<sup>3</sup>, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable<sup>4</sup>.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if ‘[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests’.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

As to the handwritten signatures contained in some of the documents, which are biometric data, there is a risk that their disclosure would also prejudice the legitimate interests of the persons concerned.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

---

<sup>3</sup> Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, ECLI:EU:C:2010:378, paragraph 59.

<sup>4</sup> Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

### **3. Gestdem No 2019/5356**

Please note that since your request concerns an area also falling under the responsibility of DG GROW, to which you have submitted a similar access to documents request, registered under Gestdem No 2019/5356, we refer you, in addition, to the reply already provided by DG GROW to the above-mentioned request.

### **4. Disclaimer**

Please also note that those documents included in the attached Annex that originate from third parties are disclosed for information only and cannot be re-used without the agreement of the originators, who hold a copyright on them in accordance with the Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971) and the relevant EU Directives. Furthermore, they do not reflect the position of the Commission and cannot be quoted as such.

### **4. Means of redress**

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review its position on the matters already mentioned. 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  
Secretariat-General  
Transparency, Document Management & Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Cristina de Avila  
Head of Unit