



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT
The Director-General

Brussels,
AGRI.H.1

Ms Greata Rosén FONDAHN
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28005 Madrid

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Subject: Request for access to documents – ref. Gestdem 2022/3500

Dear Ms. Fondahn,

Thank you for your prompt reply and agreeing to the fair solution proposed in the latest correspondence.

You request access to: 1) *DG AGRI's Process for handling potential irregularities found in the Common Agricultural Policy funds statistics reported by Member States to the DG;* 2) *DG AGRI's Process for handling reports of potential irregularities or fraud concerning Common Agricultural Policy funds recipients;* 3) *Reports of irregularities or fraud concerning Common Agricultural Policy funds recipients, sent to, held or created by DG AGRI;* 4) *Correspondence sent to DG AGRI regarding potential irregularities or fraud concerning Common Agricultural Policy funds recipients, from 1.01.2022 to 17.06.2022 and concerning Finland, Germany and Malta.*

Your application concerns the following documents:

No	Title/kind (email, note) of the document	Author of the document	Ares no and date of the document	AGRI decision <i>Ex. Give access, Refuse, Consult MS</i>	Comment or justification in case of refusal
1	DG AGRI Anti-fraud Strategy,	DG AGRI	Ares(2020) 5099349 –	Give access	

	Version 4.0		29/09/2020		
2	Internal rules for the handling of allegations of fraud and other irregularities, and OLAF cases	DG AGRI	Ares(2020)5940920 – 26/10/2020	Give access	
3	Annual Activity Report 2021 with Annexes	DG AGRI	Ares(2022)3212493 – 25/04/2022	Give access	
4	Correspondence sent to DG AGRI regarding irregularities and fraud cases	N/A	N/A	Refuse access	Protection of the purpose of ongoing investigations (Article 4(2), third indent)
4a	—	N/A	Ares(2022)5357269	Refuse access	Considered ongoing investigations
4b	—	N/A	Ares(2022)5357357	Refuse access	Considered ongoing investigations
4c	—	N/A	Ares(2022)5357458	Refuse access	Considered ongoing investigations

Documents under 1), 2) and 3)

We enclose a copy of the documents requested under 1) and 2). The document requested under 3) can be accessed on this page: https://ec.europa.eu/info/publications/annual-activity-report-2021-agriculture-and-rural-development_en (information relevant to irregularities and fraud can be found in Annex 7).

You may reuse public documents, which have been produced by the European Commission based on the [Commission Decision on the reuse of Commission documents](#)¹. You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Documents under 4)

¹ 2011/833/EU: Commission Decision of 12 December 2011 on the reuse of Commission documents, OJ L 330, 14.12.2011, p. 39

Having examined the documents requested under the provisions of Regulation (EC) 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4 of this Regulation.

The documents which you seek to obtain relate to ongoing investigations concerning irregularities or possible fraud in connection with recipients of the Common Agricultural Policy funds.

As such, these documents fall under the protection of Article 4(2), third indent, of Regulation 1049/2001, based on a general presumption of non-disclosure, as confirmed by the General Court² as regards documents concerning OLAF investigations. In order to ensure the effectiveness of investigations led by OLAF into cases of possible fraud, it is essential to preserve a climate of mutual trust between all parties involved in the investigations, and hence the confidentiality of these investigations is of high importance. The investigations led by OLAF – and the underlying evidence and information sources – therefore require strict protection from the public. It follows that disclosure of the documents requested would undermine the protection of the purpose of investigations by OLAF. Therefore, the exception laid down in Article 4(2), third indent of Regulation (EC) 1049/2001 applies to these documents.

We have considered whether partial access could be granted to the documents requested. However, at the present moment, the entire document falls under the above-mentioned exceptions to the right of access to documents provided for by Regulation (EC) 1049/2001.

The exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosure of the documents. The services of the Directorate-General for Agriculture and Rural Development have examined whether there could be an overriding public interest in disclosure at this stage of the process, but we have not been able to identify such an interest.

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 Secretary-General of the Commission at the following address:

European Commission

Secretariat-General

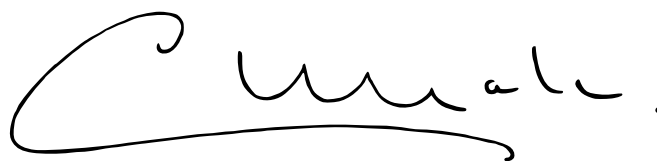
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076

B-1049 Bruxelles

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

² See in particular the judgment in *Strack v Commission*, T-221/08, EU:T:2016:242, paragraphs 159 to 164.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Michael', with a large, sweeping flourish underneath the name.

p.o. Michael NIEJAHR
in absence of

Wolfgang BURTSCHER