



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

Director-General

 Ref. Ares(2018)954824 - 19/02/2018

Brussels,
DG JUST/E3/CS/mv

By registered letter with acknowledgment of receipt

Mr Peter Teffer
EUobserver
Rue Montoyer 18B
1000 Brussels
Belgium

Advance copy by email:
ask+request-4975-275a53e8@asktheeu.org

Dear Mr Teffer,

Subject: Your application for access to documents – Ref GestDem No 2018/0148

We refer to your e-mail dated 8 January in which you make a request for access to documents, registered on 8 January 2018 under the above mentioned reference number in which you requested the following documents:

- All documents sent to the European Commission by Member States since 1 January 2017, including but not limited to e-mails and their attachments, regarding the issue of 'dual food quality'
- All documents sent by the European Commission to Member States since 1 January 2017, including but not limited to e-mails and their attachments, regarding the issue of 'dual food quality'
- All minutes of meetings with the European Commission since 1 January 2017 regarding the issue of 'dual food quality'
- All other European Commission documents since 1 January 2017, including but not limited to 'lines to take', intra-Commission e-mails and their attachments, regarding the issue of 'dual food quality'

Due to the large volume of documents concerned, on 29 January 2018 you were asked to narrow down the scope of your request. On 31 January 2018 you accepted our proposal for a fair solution, and consequently narrowed down your request to the following categories of documents:

- Overview of national studies
- Internal communication regarding the harmonized testing approach and Commission notice of 26 September on dual quality of food
- Letters & emails received and replied by the Commission from Member States
- Minutes of meetings and workshops

The full list of the concerned documents can be found in the annexes to this reply.

Since some of the documents concerned originate from third parties, the originators of the documents have been consulted.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, and having consulted the relevant third parties I have come to the conclusion that they may be partially disclosed. The extent to which documents are given access can be summarised as follows:

- Annex I contains the list of document to which you have been granted full access.
- Annex II compounds the list of documents to which you have been given partial access.
- Annex III contains the list of documents to which you have been refused access.

As regards documents in Annex II, some parts of the documents found therein have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation. The redacted parts of documents relate to the protection of personal data, the refusal by third parties to disclose information which concerns them, and to ongoing investigations.

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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

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 that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data (Annex II, documents (items) 1-35).

Further, in the case of document (item) 4 of Annex II, a part of page 3 was blanked out as requested by the third party concerned on the basis of the protection of its commercial interests as provided by Article 4(2) of Regulation (EC) No 1049/2001. In document (item) 15 of Annex II, a section of page 3 was redacted due to the fact that it contained confidential information related to an ongoing investigation regarding a possible infringement of EU law (DG COMP, case reference number 8T.40134). Moreover, in the case of document (item) 36 of Annex II, a part of page 2 was redacted

¹ Official Journal L 8 of 12.1.2001, p. 1

² 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.

following the Kingdom of Belgium's refusal to disclosure in line with Article 4(1)(a) indent 3, and Article 4(2) of Regulation (EC) No 1049/2001 as it would undermine the protection of international relations and the purpose of ongoing investigations.

As regards documents found in Annex III the authors have objected to their disclosure. The two documents concerned are the excerpts of the minutes of the Consumer Protection Cooperation (CPC) Committee meetings of 16 March and 15 June 2017. The excerpts of both documents covered the issue of dual quality of food, whereas the remainder of both documents covered other topics falling outside the scope of your request. Following consultations with the member states, the Kingdom of Belgium refused to grant you access to the excerpts of both meetings on the basis of Article 4(1) and 4(2) of Regulation (EC) No 1049/2001. Due account must be taken that CPC Committee meetings are meant for the discussion by EU member states of ongoing investigations, as well as CPC enforcement priorities, which could be jeopardised if made public at this stage.

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 Bruxelles

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

Yours sincerely,

(eSigned)

Tiina ASTOLA

Cc: E. Hulicius (CAB),
F. Fonseca Morillo, M-P. Benassi, T. Garcia, C.Schubert, J. Gonzalez Mellizo (JUST)

Annex 1: Documents subject to full disclosure to the applicant

File no.	Author	Addressee	Date	Title	Ares no.
1	Slovak authorities	Attendees of the Summit	13.10.2017	Consumer Summit Report	Ares(2018)729355
2	Commission	Commission	10.2017	Updated Overview on national studies in the area of Dual Quality Food	Ares(2018)730274
3	Commission	Commission	29.10.2017	Conclusions of the brainstorming meeting regarding the harmonised testing approach - 29/09/17	Ares(2018)883112
4	German authorities	Commission	11.2017	Position statement of Germany regarding Commission notice of 26 September 2017.	Ares(2018)728153

Annex 2: Documents subject to partial disclosure to the applicant

File no.	Author	Addressee	Date	Title	Ares no.
1.	Commission	Commission	29.03.2017	Dual quality food - minutes of coordination meeting 24.03.2016	Ares(2017)1679563
2.	Commission	Commission	05.04.2017	Flash report - meeting with AIM on dual quality of foodstuffs 04042017	Ares(2018)728909
3.	Commission	Commission	01.06.2017	Meeting of Commissioner with MEP Borzan01062017	Ares(2018)728652
4.	Commission	Commission	03.08.2017	Meeting with the industry 3 August 2017	Ares(2018)728543
5.	Commission	Commission	28.09.2017	DQF CPC workshop 28 Sept	Ares(2018)729186
6.	Commission	Commission	03.10.2017	DQF flash report High Level Forum 3 October	Ares(2018)729125
7.	Commission	Commission	15.11.2017	Dual Quality - Joint workshop - CPC Food Authorities - 13 November - Flash Report	Ares(2018)729052
8.	Commission	Commission	08.09.2017	Request for agreement to launch the Inter Service Consultation concerning the European Commission's Interpretative Notice on the application of EU food and consumer law to identify eventual unfair practices in relation to dual quality of food	Ares(2017)4400649
9.	Commission	Commission	12.09.2017	Agreement to launch the Inter Service Consultation concerning the European Commission's Interpretative Notice on the application of EU food and consumer law to identify eventual unfair practices in relation to dual quality of food	Ares(2017)4451019
10.	Commission	Commission	14.09.2017	Reply to ISC from JRC	Ares(2018)913332
11.	Commission	Commission	14.09.2017	Reply to ISC from SANTE	Ares(2017)4507853

12.	Commission	Commission	14.09.2017	Reply to ISC from SG	Ares(2018)913332
13.	Commission	Commission	14.09.2017	Reply to ISC from GROW	Ares(2018)913332
14.	Commission	Commission	14.09.2017	Reply to ISC from MARE	Ares(2018)913332
15.	Commission	Commission	18.09.2017	Reply to ISC from COMP	Ares(2018)913390
16.	Commission	Commission	06.10.2017	Development and implementation of a common approach for testing quality related characteristics of branded food products	Ares(2017)4893255
17.	Commission	Commission	16.10.2017	Note to DG Sucha by DG Astola	Ares(2017)4893255
18.	Commission	Commission	24.10.2014	PR COM SI2.765699 - AA n°- JUST/2017/CONS/AA/CO03/0078 - Administrative Arrangement DG JUST 34933 - Dual Quality Food	Ares(2017)5189868 & Ares(2017)5042369
19.	Commission	Commission	21.12.2017	JUST comments on GROW paper	Ares(2018)883272
20.	Romanian authorities	Commission	18.04.2017	Letter from Romanian Minister for Agriculture to Cšsr Jourova on the subject of Dual Quality of Foodstuffs in Romania [Letter no. 2558/13.04.2017]	Ares(2017)1992857
21.	Lithuanian authorities	Commission	28.04.2017	Letter from the Lithuanian authorities - 2D-1507.pdf.pdf	Ares(2017)2208707
22.	Slovak authorities	Commission	15.6.2017	Letter from the Minister of Agriculture and Rural Development of the Slovak Republic regarding the phenomenon of Dual Quality of food products on European market	Ares(2017)3007396
23.	Polish authorities	Commission	26.6.2017	Reply of Polish Minister of Agriculture, Mr Krzysztof Jurgiel on dual quality of foodstuffs	Ares(2017)3192973
24.	Romanian authorities	Commission	26.07.2017	Letter from the Romanian Ministry of Agriculture of 26 July 2017	Ares(2017)3780746
25.	Bulgarian authorities	Commission	03.10.2017	Letter to President JC Juncker sending the common position in support of the request for EU legislation against double standards in food quality in Bulgaria + Letter from Commissioner Jourová to Bulgarian	Ares(2017)5897865 & Ares(2017)4813359

				Ombudsman	
26.	Hungarian authorities	Commission	16.10.2017	Reply from HU Minister Fazekas Sándor to the letter from the Commission informing about the short term activities with regards to dual quality of food	Ares(2017)5107202
27.	Czech authorities	Commission	18.10.2017	Letter to President JC Juncker from Minister of CZ Agriculture Marian JUREČKA on dual quality of foodstuffs in the EU single market and inclusion of legislative measures to guarantee that a product could have same packaging and composition (same letter sent to Csr Andriukaitis, Bienkowska and Jourova) + Reply	Ares(2017)5094374 & Ares(2017)6342590
28.	Austrian authorities	Commission	10.11.2017	Exchange with Austria Workshop Food Composition	Ares(2018)701343
29.	Latvian authorities	Commission	24/11/2016	LV comments on Commission notice on Dual Quality food	Ares(2018)728258
30.	European Ombudsman	Commission	10.04.2017	Letter from the EU Ombudsman and Reply from Commissioner Jourová to EU ombudsman	Ares(2017)2702094
31.	Commission	Member States	04.04.2017	Letter signed by Commissioners Jourova, Bienkowska and Andriukaitis to Ministers of AGRIFISH Council of 6 March 2017 regarding dual quality of food	Ares(2017)1801827
32.	Commission	Member States	14.06.2017	R/Follow-up letter to Ministers of AGRIFISH regarding dual quality of food (in line with the conclusions of the European Council of 9 March 2017) signed by Commissioners Jourova, Bienkowska and Andriukaitis	Ares(2017)2990885
33.	Commission	Member States	28.7.2017	Follow-up letter to Ministers of AGRIFISH regarding dual quality of food signed by Commissioners Jourova, Bienkowska and Andriukaitis (sent to all 28 MS)	Ares(2017)3806995
34.	Commission	Commission	2017	Summary of studies on dual quality food	Ares(2018)730274
35.	Czech authorities	Commission	2017	Final Report of Product Quality Comparison in the CR and FRG	Ares(2018)883826
36.	Member States	Commission	2017	Questionnaire to Member States	Ares(2018)940930

Annex 3: Documents subject to an access denial

File no	Author	Addressee	Date	Title	Ares no.
1	CPC Committee	Commission	16.03.2017	Minutes CPC Committee 16 March 2017	Ares(2018)730480
2	CPC Committee	Commission	15.06.2017	Minutes CPC Committee 15 June 2017	Ares(2018)730437