



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Food and feed safety, innovation
Pesticides and biocides

Brussels,
SANTE/E4/RC/od(2018)5276548

***By registered letter with
acknowledgement of receipt***

Mr Vincent Harmsen
Siriusstraat 200
1622 ZN Hoorn
The Netherlands

Advance copy by email:
ask+request-5778-3bbaud44@asktheeu.org

Dear Mr Harmsen,

Subject: Your application for access to documents – Ref. GestDem 2018/4140

We refer to your email of 30 July 2018 in which you make a request for access to documents on the basis of Regulation (EC) No 1049/2001¹, registered on the same date under the above-mentioned reference number.

We also refer to our reply of 11 September 2018 registered under Ares(2018)4656813 which contained the identification and assessment of 13 documents falling within the scope of your request. In addition to these 13 documents identified in this reply, we have identified 3 other additional documents falling within the scope of your application.

Having examined these document under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the conclusion that:

- Full access can be granted to documents No 1 that is indicated with "Yes" in the list of documents.
- Partial access can be granted to documents 2 and 3 that are indicated with "Partial" in the list of documents.

The documents that can be (partially and full) released and the list of documents containing the result of the assessment carried out on their content on the basis of Regulation (EC) No 1049/2001 are published on the following Commission webpage:

<https://webgate.ec.europa.eu/dyna/extdoc>

You can view these documents by entering the GestDem reference of your request ("2018/4140") in the search box at the top of the page.

¹ Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Alternatively, you can click on “view documents per request” and search on the left column for the GestDem reference of your request (“2018/4140”).

The above-mentioned page has been recently launched by DG SANTE as part of a pilot scheme to make documents publicly available following an access to documents request. This page will be updated each time new documents will have been made public through the access to documents procedure.

You may re-use Commission documents free of charge 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. Documents originating from third parties cannot be re-used without the agreement of the originators. They do not reflect the position of the Commission and cannot be quoted as such.

1. Reason for refusal

Out of scope

Parts of document No 3 contain information that is not related to the endocrine disruptors criteria or to endocrine disrupting chemicals in general. Therefore, those parts of the document have been redacted, as they fall outside the scope of your request.

2. Protection of personal data

Documents No 2 and 3 contain personal data, such as the names of non-senior managerial Commission staff or the signature of Commissioner Andriukaitis.

As to the signature, which is a biometric data, there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned, as it would expose them to the risk of forgery and identity theft.

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 EU legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001².

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 that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, partial access is granted to the requested documents, expunged of personal data.

² 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 (OJ L 8, 12.1.2001, p. 1).

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

3. Overriding public interest

The exceptions to the right of access provided for in Article 4(3) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested documents. In your application, you did not submit any grounds concerning a public interest on the basis of which the interests protected in Regulation (EC) No 1049/2001 would have to be overridden, and we could not identify any such ground either. In these circumstances, we have to conclude that there is no evidence of an overriding public interest in disclosure, in the sense of Regulation (EC) No 1049/2001.

4. Means of redress

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
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,



Klaus Berend
Head of Unit