



EUROPEAN RESEARCH EXECUTIVE AGENCY (REA)

D1 Planning, Knowledge and Compliance  
Head of Unit

Brussels,  
REA D1.003

Mr Steven Lock  
5 Racefield,  
A63 CX96 Newcastle  
IRELAND

*Sent by registered email to:*  
stevenjlock@gmail.com

**Subject: Your application for access to documents on project  
AUTOGRASSMILK (grant agreement nr. 314879) - Ares(2021)1458754**

Dear Mr Lock,

We refer to your two requests for access to documents submitted to the Research Executive Agency on 22/02/2021 via the website AskTheEU.org and registered on 24/02/2021 under a sole reference number Ares(2021)1458754. Further to the acknowledgement of your application, we informed you on 17 March 2021 that an extension of the time limit with 15 working days was necessary in accordance with Article 7(3) of Regulation (EC) No 1049/2001 regarding public access to documents.

**A. SCOPE OF YOUR REQUEST**

In your application concerning the project AUTOGRASSMILK (grant agreement nr. 314879) you request:

*“Specific grant agreements and framework partnership agreements regarding AUTOGRASSMILK project Grant Agreement ID 314879 funded under FP7-SME AG.*

*In particular can you provide the consortium agreement and all agreements involving TEAGASC (Teagasc Agricultural Catchments Programme Ireland) EU Contribution €114 625 AIDAN MICHAEL POWER Ireland EU contribution € 25 313 THE CIRCA GROUP EUROPE LIMITED Ireland EU contribution € 73 583 The IRISH GRASSLAND ASSOCIATION Ireland EU contribution € 470 337*

*Can also provide details of all payments made to these organisations as part of the project, including amounts, and payment schedules.”*

and:

*“1. The original Application and Proposal Document regarding AUTOGRASSMILK project Grant Agreement ID 314879 funded under FP7-SME AG.*

*2. A copy of the Final Reports as submitted.*

*3. Any documentation regarding the involvement in the project of: TEAGASC (Teagasc Agricultural Catchments Programme Ireland) EU Contribution €114 625 AIDAN MICHAEL POWER Ireland EU contribution € 25 313 THE CIRCA GROUP EUROPE LIMITED Ireland EU contribution € 73 583 The IRISH GRASSLAND ASSOCIATION Ireland EU contribution € 470 337 In particular can you provide details of the deliverables each of these organisations provided to the project.”*

This request is handled within the scope of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup>.

## **B. DISCLOSURE OF THE REQUESTED DOCUMENTS**

Having examined the documents requested under the provisions of Regulation (EC) N° 1049/2001 regarding public access to documents, we consider that the documents which are listed in Annex 1 attached to this letter are related to your request. In Annex 1 we specify the documents to be disclosed or partially disclosed according to the exceptions provided in the above mentioned Regulation. The legal grounds for calling on these exceptions are mentioned for each of the documents listed in Annex 1 to this letter.

As the following documents were already partially disclosed to you on 03/03/2021<sup>2</sup>, as part of the REA reply to your request for access to documents related to the same project, they are not included in the Annex 1 to this letter:

- Proposal AUTOGRASSMILK part A
- Proposal AUTOGRASSMILK part B
- Annex 1 Description of Work- Annex I to the grant agreement
- Final Report (Ares(2016)1162795)
- Final Report EU Financial Contribution Distribution (Ares(2017)462824).

Concerning the exceptions to the right of access laid down in Articles 4(1) (b) and 4(2) first indent of Regulation (EC) No 1049/2001, namely the protection of privacy and the integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data, and the protection of commercial interests of a natural or legal person including intellectual property we recall the following:

### **Protection of privacy and integrity of the individual**

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<sup>1</sup> Regulation (EC) N° 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L145, 31.05.2001, page 43, hereinafter “Regulation N° 1049/2001.

<sup>2</sup> REA reply reference Ares(2021)160491

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 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 (EU) No 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) 45/2001 and Decision No 1247/2002/EC<sup>3</sup> (hereinafter “Regulation 2018/1725”).

The documents listed under nr. 1, 4, 6, 7, 8 in Annex 1 contain personal data of individuals such as the name, surname, email, address, telephone number, fax number, signature or other personal data of staff of the consortium or of REA that are not in the public domain. 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>4</sup>.

In its Judgment in case C-28/08/P (Bavaria Lager)<sup>5</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. Pursuant Article 9 (1) (b) of Regulation (EC) 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, REA 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 REA has to examine whether there is a reason to assume that the data subject’s legitimate interest might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose.

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<sup>3</sup> Official Journal L 205 of 21.11.2018, p. 39

<sup>4</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in case C-434/16.

<sup>5</sup> Judgment of 29 June 2010 in case C-28/08/P, European Commission v The Bavaria Lager Co. Ltd, EU:C2010:378, paragraph 63.

We consider that, in your request, you do not put forward any arguments to establish the necessity to have the data transmitted. Therefore, REA does not have to examine whether there is a reason to assume that the data subject's legitimate interest might be prejudiced. Nevertheless, please note that there are no reasons to assume that the legitimate interest of concerned individuals would not be prejudiced by disclosing their personal data. In the present case, disclosure of the personal data of persons involved in the project in question would harm their privacy.

Consequently, I conclude that, pursuant to Article 4(1) (b) of Regulation 1049/2001, access cannot be granted to the personal data contained in the documents requested. Therefore, the personal data have been redacted in the documents.

The exception laid down in Article 4(1) (b) of Regulation (EC) No 1049/2001, the protection of privacy and the integrity of the individual, is an absolute exception that does not have to be balanced against the public interest in disclosure.

### **Protection of commercial interests of natural and legal persons**

The documents listed under nr. 1 and 8 in Annex 1 contain sensitive commercial information of the entities participating in the project not in the public domain, in particular the reference to the project consortium intellectual property (background and foreground) and financial data.

The public disclosure of this information would thus seriously undermine the consortium commercial interests. Accordingly, the exception in Article 4(2) first indent of Regulation (EC) No 1049/2001, has to be invoked and access to this part of the document has to be refused.

Such exception applies, unless there is an overriding public interest in disclosure of the requested documents. Such an interest must, first, be a public interest and secondly, outweigh the harm caused by disclosure. In your application, you did not bring forward any argument to justify the existence of an overriding public interest in releasing the expunged parts of requested documents. In this instance, we have found no elements that could indicate the existence of such an overriding public interest in the sense of the Regulation (EC) No 1049/2001 that would outweigh the need to protect the commercial interests identified in this reply.

Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to the parts of the above-mentioned documents that are not disclosed to you.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Director of REA to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to Mr Marc TACHELET, Director of REA, at the following address:

European Research Executive Agency (REA)  
Covent Garden building  
COV2 – 08/52  
Place Charles Rogier, 16  
1210 Brussels  
Or by e-mail to: [marc.tachelet@ec.europa.eu](mailto:marc.tachelet@ec.europa.eu)

Yours sincerely,

Marc BELLENS  
(acting Head of Unit)

Enclosures:

Annex 1 – List of documents related to the request and legal grounds regarding disclosure.  
- Document 1 - Grant agreement and accompanying letter - Ares(2012)1391397  
- Document 4 - Annex IV -Accession (Ares(2012)1455542)  
- Document 6 - Interim payment letter (Ares(2016)2445361)  
- Document 7 - Final payment letter (Ares(2016)7115957)  
- Document 8 - Consortium agreement (Ares(2013)329914)