



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels,
SANTE/B3 (2021) 3949360

By email only:

ask+request-9345-3b7670dd@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2021/2448

Dear Mr. Civillini,

We refer to your email of 15 April 2021 in which you make a request for access to documents, registered on 19 April 2021 under the above-mentioned reference number.

We also refer to our email of 6 May 2021 extending the time limit to respond to your request according to Article 7(3) of Regulation (EC) No 1049/2001.

1. Scope of your request

You requested access to:

For the period between **1 November 2020 to date**

- *a list of all lobby and industry meetings and/or calls held by DG SANTE, including any Cabinet Members and/or official, during which plans/proposals/offers about Covid-19 Vaccine Passports and/or the Digital Green Certificate were discussed. The list should include: date, individuals attending and organisational affiliation, as well as the issues discussed;*
- *all minutes and other reports of these meetings and/or calls;*
- *all documents prepared for the purpose of the meetings issued both in preparation and after the meetings took place.*
- *all correspondence, including attachments (i.e. any emails, mail correspondence, telephone call notes, presentations) between DG SANTE, including any Cabinet Members and/or officials, and any lobby group and/or industry representative discussing plans / proposals /offers about Covid-19 Vaccine Passports and/or the Digital Green Certificate;*

We consider your request to cover documents held up to the date of your initial application, i.e. 15 April 2021.

Please note that we have been made aware of your separate requests with the same scope addressed to other Directorates-General. This reply relates only to the documents held by the Directorate-General for Health and Food Safety. You will receive the replies from the other respective Directorates-General in due course.

2. Identification and assessment of relevant documents

We have identified 47 documents that fall within the scope of your request.

You will find attached a table listing the identified documents and summarising the outcome of the assessment carried out on the basis of Regulation (EC) No 1049/2001.

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

- Full access can be granted to the following documents: No 2b, 22b;
- Partial access can be granted to the following documents as their full disclosure is prevented by one or several exceptions to the right of access laid down in Article 4 of the Regulation: No 1d, 1e, 2a, 3a, 3b, 4, 5, 6a, 6b, 7a, 7b, 7c, 8a, 8b, 8c, 9, 10a, 10b, 11a, 11b, 12a_EL, 12a_EN, 13a, 13b, 13c, 14, 16a, 16c, 17a, 17b, 18a, 18c, 19, 20, 21, 22a, 22c;
- No access can be granted to the following documents as their disclosure is prevented by an exception to the right of access laid down in Article 4 of the Regulation: No 1a, 1b, 1c, 1f, 1g, 1h, 16b, 18b.

We enclose a copy of the documents listed under the first two bullet points redacted of the parts which cannot be disclosed as further explained below.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). 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.

Please note that documents originating from third parties cannot be re-used without the agreement of the originators, who hold a copyright on it. They do not reflect the position of the Commission and cannot be quoted as such.

With regard to documents 16c, 17b, 18c, 19, 20, 21, 22c, these documents were drawn up for internal use under the responsibility of the relevant services of the Directorate-General for Health and Food Safety. They solely reflect the services' interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

3. Partial disclosure of documents

3.1. Protection of the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data - Article 4(1)(b) of Regulation (EC) No 1049/2001

With regard to the documents No 1d, 1e, 2a, 3a, 3b, 4, 5, 6a, 6b, 7a, 7b, 7c, 8a, 8b, 8c, 9, 10a, 10b, 11a, 11b, 12a_EL, 12a_EN, 13a, 13b, 13c, 14, 16a, 16c, 17a, 17b, 18a, 18c, 19, 20, 21, 22a, 22c, a complete disclosure of the identified documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- other information relating to an identified or identifiable natural person.

Article 9(1)(b) of the Data Protection Regulation¹ does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, 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.

3.2. Protection of the commercial interests of a legal person - Article 4(2), first indent, of Regulation (EC) No 1049/2001

Documents No 16a, 16c, 17b, 18c, 19, 20, 21, 22c also contain information whose disclosure would undermine the commercial interest of a legal person, since they include industrial information and information covered by intellectual property. Consequently, some parts of these documents have been blanked out as their disclosure is prevented by exception to the right of access laid down in Article 4(2), first indent of this Regulation.

4. Refusal of documents

4.1. Protection of the commercial interests of a legal person - Article 4(2), first indent, of Regulation (EC) No 1049/2001

Documents No 1a, 1b, 1c, 1f, 1g, 1h, 16b, 18b, also contain information whose disclosure would undermine the commercial interests of a legal person, since they include industrial information and information covered by intellectual property.

Since these documents originate from third parties the latter have been consulted, in accordance with Article 4(4) of Regulation (EC) No 1049/2001, in order to assess whether an exception under Article 4 of this Regulation is applicable.

The third parties have either objected to the disclosure of these documents invoking the argument that putting in public domain some business sensitive information contained therein would affect its competitive position on the market or they did not indicate their agreement with the disclosure within the set deadline. Therefore, having considered the opinion of the third parties involved, we came to the conclusion that the exception laid down in Article 4(2), first indent, of Regulation (EC) No 1049/2001 applies to the concerned documents.

We have considered whether partial access could be granted to these documents, in accordance with Article 4(6) of the Regulation. However, it follows from the assessment made above that documents are entirely

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

covered by the exception laid down in Article 4(2), first indent, as the remaining parts after expunging the confidential information are meaningless and illegible.

Therefore, no access can be granted to these documents.

5. Overriding public interests

The exceptions to the right of access provided for in Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested document. 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.

6. 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
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

Yours sincerely,

Sandra GALLINA
(e-signed)

Acting Director-General

Enclosure: Attached table of documents (as mentioned in section 2) and the disclosed documents.

