



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

The Director-General

Brussels
HOME.D.5/PM

Mr Sergi Riudalbàs

By e-mail with acknowledgement of receipt:

ask+request-12870-f0dd24e2@asktheu.org

Subject: Your request for access to documents – EASE 2023/2275

Dear Mr Riudalbàs,

I refer to your request for access to documents, registered on 18 April 2023 under the above-mentioned reference number.

You request access to all documents, including but not limited to, opinions, reports, presentations, assessments and analysis issued by the European Commission, including its Directorate Generals and their working and expert groups, related to Germany's plans to legalize recreational cannabis, including decriminalization, non-profit cannabis clubs and scientific projects, as well as all communications, including but not limited to meetings, minutes of meetings, discussions and written communications, between the European Commission, including its Directorate Generals and their working and expert groups, and the government of Germany related to Germany's plans to legalize recreational cannabis, including decriminalization, non-profit cannabis clubs and scientific projects, since their first announcement in the ruling coalition agreement in November 2021 until today.

I assume that your request relates to documents which are up to the date of your initial application, i.e. 18 April 2023.

I have identified the following documents as covered by your request:

- Email exchange of 31 October and 7 November 2022 on the organisation of a meeting between me and Minister of State at the Bavarian Ministry of Health and Care Klaus Holetschek (Ares(2022)7660837), hereinafter ‘document 1’;
- Minutes of the meeting “Meeting with the Bavarian Minister of Health Mr Holetschek” of 17 November 2022 (Ares(2023)132936), hereinafter ‘document 2’;

- Legal opinion shared by the Bavarian Minister of State Klaus Holetscheck (Ares(2023)1500132), hereinafter ‘document 3a, 3b and 3c’;
- Information on the upcoming publication of a concept paper and request for a meeting by Dr. Thomas Steffen, State Secretary (Ares(2022)7403719), hereinafter ‘document 4a’ and ‘document 4b’;
- Follow-up letter to the meeting of 14 November 2022 by Dr. Thomas Steffen, State Secretary (Ares(2022)8242711), hereinafter ‘document 5’;
- Meeting report - Dr Thomas Steffen, State Secretary of the German Federal Ministry of Health - cannabis (Ares(2023)3260103), hereinafter ‘document 6’;
- Meeting report 18/1/23 - Dr Thomas Steffen, State Secretary of the German Federal Ministry of Health – cannabis (Ares(2023)2628041), hereinafter ‘document 7’;
- Open letter from Cansativa (Ares(2022)7920572), hereinafter ‘document 8a and 8b’;
- Reply to the Open letter from Cansativa (Ares(2022)7920572), hereinafter ‘document 9’;
- Meeting organisation with Ms Carmen Wegge (Ares(2022)7498533, hereinafter ‘document 10a’;
- Meeting report Carmen Wegge (Ares(2022)7773725), hereinafter ‘document 10b’.

Having examined the above-mentioned documents in accordance with the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter: ‘Regulation (EC) No 1049/2001’)¹, I have come to the conclusion that, due to the exception to the protection of privacy and the integrity of the individual laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001, these cannot be disclosed in their entirety because they contain the following personal data:

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

According to Article 9(1)(b) of the Data Protection Regulation², these personal data may not be transferred unless you demonstrate that the transfer of the data is necessary for a specific purpose in the public interest and 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

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ Regulation (EU) 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) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

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.

Against this background, the attached documents are communicated to you in a redacted version from which personal data have been removed. Please note that some of these documents are originating from third parties and disclosed on the basis of Regulation (EC) No 1049/2001. However, such disclosure, and in particular of document 3c, is without prejudice to the rules on the protection of intellectual property, according to which reproduction or exploitation of the released document may require the consent of the person holding the copyright in the document. The European Commission does not assume any responsibility from their reuse.

Moreover, documents 2 and 10b were drawn up for internal use under the responsibility of the relevant service of the Directorate-General for Migration and Home Affairs. It solely reflects the author's interpretation of the interventions made and does 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.

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 document 2 and 5 may be only partially disclosed. Some parts of the document have been blanked out as their disclosure is prevented by the exception to the right of access laid down in the first subparagraph of Article 4(3) of this Regulation.

The redacted part of the documents you requested relates to a decision not yet taken by the Commission.

The disclosure of the redacted part of the documents would undermine the Commission's decision-making process with regard to Germany's current plans to legalise cannabis by revealing preliminary views and policy options that are still under consideration. The Commission services must be able to examine all existing options to prepare a decision without external pressure. Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to the redacted part of these documents.

Moreover, having examined the requested documents 6 and 7 under Regulation (EC) No 1049/2001, I regret to inform you that your request cannot be granted, as disclosure of the documents concerned cannot be granted due to the exception laid down in Article 4 of that Regulation.

The documents you requested relate to a decision not yet taken by the Commission.

The disclosure of the requested documents would undermine the Commission's decision-making process with regard to Germany's current plans to legalise cannabis by revealing preliminary views and policy options that are still under consideration. This is particularly the case as scientific evidence on this issue is expected, which should feed into the decision-making process. The Commission services must be able to examine all existing options to prepare a decision without external pressure. Therefore the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to these documents.

We have considered whether partial access could be granted to the documents requested. Documents 6 and 7 are fully covered by the exception laid down in the first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001.

The exceptions laid down in Articles 4(2) and 4(3) of Regulation (EC) No 1049/2001 shall apply unless there is an overriding public interest in disclosure. In this context, it was examined whether there could be an overriding public interest in disclosure. Such an interest could not be identified in this regard. Therefore, no partial access to documents 6 and 7 is granted.

In the light of the above, please find attached documents 1–5 and 8a–10b, some of them in a redacted version.

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.

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your EASE portal⁽³⁾ account (available only for initial requests submitted via the portal account)

or by mail:

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

Finally, I note that your request has been submitted outside the EASE portal. Therefore, I would appreciate, if you could **acknowledge receipt of the present letter by sending an email to** HOME-ACCESS-DOCUMENTS@ec.europa.eu.

Yours faithfully,

⁽³⁾ <https://www.ec.europa.eu/transparency/documents-request>

Enclosure: Document 1 - Redacted - Email Austausch
Document 2 - Redacted - Meeting report - Klaus Holetschek
Document 3a - Redacted - Rechtsgutachten zur Cannabislegalisierung
Document 3b - Schreiben von Staatsminister Holetschek
Document 3c - Rechtsgutachten zur Cannabislegalisierung
Document 4a - Redacted - Letter State Secretary Dr Steffen
Document 4b - Letter State Secretary Dr Steffen - Controlled dispensing
of recreational cannabis to adults
Document 5 - Redacted - WG_ Letter State Secretary Dr Steffen -
Controlled dispensing of recreational cannabis to adults
Document 8a - Open letter from Cansativa
Document 8b - Open letter from Cansativa
Document 9 - Reply to the open letter from Cansativa
Document 10a - Redacted - Meeting organisation Carmen Wegge
Document 10b - Redacted - Meeting report Carmen Wegge