



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND
TECHNOLOGY

The Director-General

Brussels, 1 August 2024
CNECT.R.4.001

Ms Vicky Cann
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Belgium

Only via email:
[ask+request-14636-
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Subject: Your application for access to documents – EASE 2024/3369

Dear Ms Cann,

We refer to your email of 6 June 2024 in which you make a request for access to documents pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (hereinafter 'Regulation 1049/2001'), which was registered on 24 June 2024 under the above-mentioned reference number. We also refer to our email, dated 15 July 2024, our reference Ares(2024)5130442, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) Regulation 1049/2001.

1. SCOPE OF YOUR APPLICATION

Your application reads as follows:

'[...] Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I would like to request access to the following documents related to lobbying on PFAS, per and polyfluoroalkyl substances. In particular I would like:

1. A list of all meetings/ discussions since 1 January 2023 between officials and or Commissioners with businesses, trade associations, or think tanks where this topic was discussed.

2. Any records, minutes, preparatory briefings, or other notes of these meetings/discussions.

3. All correspondence since 1 January 2023, where this topic was discussed, exchanged between officials and or Commissioners with businesses, trade associations, or think tanks. [...]

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

We have identified the following documents as falling within the scope of your application:

- ESIA and SEMI – PFAS Workshop, (**‘Document 1’**);
- Back to Office Report (BTO), Meeting with Chemours, Ares(2023)3468894 (**‘Document 2’**);
- Email exchanges, ‘Request for a meeting’ & ‘Follow up – Impact of PFAS restrictions’, dated 13 March 2023-20 September 2023, (**‘Document 3’**).
- Chemours Factsheet, (**‘Document 4’**);
- Chemours, Presentation Fluoroproducts, (**‘Document 5’**) ;
- Chemours, Position Paper, (**‘Document 6’**) ;
- Company Report, ‘The Impact of a Potential PFAS Restriction, (**‘Document 7’**).

3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that full access can be granted to one document, partial access can be granted to one document and access must be refused to five documents as their full disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001. Please note that a part of Document 2 has been also redacted as being outside the scope of the request.

A. Full disclosure

Full access can be granted to Document 1. Please find it enclosed to this letter.

B. Partial disclosure

(i) Protection of privacy and integrity of individuals

Full disclosure of Document 2 is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since they contain the following personal data:

- Names and contact details of Commission staff members not pertaining to the senior management;
- Names, functions and contact details of other natural persons.

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

¹ 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.

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, we conclude that, pursuant to Article 4(1)(b) Regulation 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.

C. Non-disclosure

We regret to inform you that access to Documents 3-7 cannot be granted as disclosure is prevented by exception related to the protection of commercial interest as laid down in the first indent of Article 4(2) of Regulation 1049/2001.

Article 4(2) first indent of Regulation 1049/2001 provides that *‘the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.’*

This provision must be interpreted in light of Article 339 of the Treaty of the Functioning of the European Union (TFEU), which requires staff members of the EU institutions to refrain from disclosing information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Documents 3-7 contain sensitive information related to the third parties’ activities, views, positions, business strategies and other commercial interests, including intellectual property. There is a real and non-hypothetical risk that disclosure of these parts of the above-mentioned documents could undermine and seriously affect the commercial interests of the companies at question.

Moreover, parts of Documents 3 and 7 contain personal data, in particular the names, functions, and contact details] of other natural persons, thus their disclosure is prevented by the exception of Article 4(1)(b) of Regulation 1049/2001 for the reasons set out in Section 3B(i). Consequently, the above-mentioned parts have been blanked out.

We have considered whether partial access could be granted to this document. However, partial access is not possible considering that the document is covered in its entirety by the abovementioned exception of Article 4 of Regulation 1049/2001. In light of the foregoing, access to Documents 3-7 must be completely refused.

4. OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply, unless there is an overriding public interest in the disclosure of documents. Such an interest must, firstly, be a public interest and, secondly, outweigh the harm caused by disclosure. We have examined whether there could be an overriding public interest in the disclosure of the aforementioned documents but we have not been able to identify such an interest.

5. REUSE OF DOCUMENTS

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 the Commission documents](#). You may reuse Document 2 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.

Document 1 originates from a third party. Please note that it is disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originators, who may hold an intellectual property right on it. The European Commission does not assume any responsibility from its reuse.

Please note that Document 2 was drawn up for internal use under the responsibility of the relevant services of DG CONNECT. It solely reflects the service's interpretation of the interventions made and do not set out any official position of the third parties to which the abovementioned document refers. It does not reflect the position of the Commission and cannot be quoted as such.

6. CONFIRMATORY APPLICATION

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 Secretariat-General of the Commission **by asking for a review via your portal² account** (available only for initial requests submitted via the portal account), or via 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 faithfully,

Electronically signed

Electronically signed

Roberto Viola

² <https://www.ec.europa.eu/transparency/documents-request>

Enclosures: (3)

