



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

The Director-General

Brussels,
GROW/F1/KH/nt
grow.f.1(2022) 6830422

Ms Stéphane Horel
@lemonde.fr

**Subject: Your application for access to documents
Ref GestDem No 2022/3957**

Dear Ms Horel,

We refer to your email of 28/06/2022 in which you make a request for access to documents, registered on 05/07/2022 under the above-mentioned reference number.

Your application was initially as follows:

*Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001 and in Regulation 1367/2006, I am requesting the following documents **on the topic of Per- and Polyfluoroalkyl substances (PFAS)**:*

1) all correspondence (including, but not limited to, emails, letters, and/or telephone call notes) including attachments, the list of meetings with detailed minutes and any other reports of such meetings, all documents prepared for the purpose of these meetings and issued after these meetings, and documents exchanged during the course of these meetings between officials of DG Environment, DG Grow, DG Health, DG Clima, the Secretary General, the EC President's Cabinet (including Commissioners and their Cabinet members) AND lobby groups, included in but not limited to the list attached to this email between January 2019 and now.

2) all correspondence (including, but not limited to, emails, letters, and/or telephone call notes) including attachments, the list of meetings with detailed minutes and any other reports of such meetings, all documents prepared for the purpose of these meetings and issued after these meetings, and documents exchanged during the course of these meetings between ECHA, DG Environment, DG Grow, DG Health, DG Clima, the Secretary General, the EC President's Cabinet (including Commissioners and their Cabinet members) between January 2019 and now.

3) all correspondence (including, but not limited to, emails, letters, and/or telephone call notes) including attachments, the list of meetings with detailed minutes and any other reports of such meetings, all documents prepared for the purpose of these meetings and issued after these meetings, and documents exchanged during the course of these meetings between DG Environment, DG Grow, DG Health, DG Clima, the Secretary General, the EC President's Cabinet (including Commissioners and their Cabinet members) AND the EU Member States, the UK and their competent authorities between January 2019 and now.

Further to the request for clarification sent by the Secretariat-General of the European Commission, we received the following elements clarifying the scope of your request:

1) PFAS are most of the time referred to as a family of chemicals under the generic term PFAS. Besides, our request concerns mainly the restriction of PFAS as a group, so the keyword PFAS should cover our scope. Our request also concerns the fire-fighting foam restriction. In the eventuality you would need a reference list of specific PFAS that are discussed at the EU level, we can provide the following: PFOA, PFOS, Genx, PFHxA, PFHxS, and less frequently PFNA, PFDA, PFUnDA, PFDoDA, PFTrDA, PFTeDA, PFOB, PFOI, ADONA, C604 and TFA.

2) Our request concerns the restrictions stated above.

3) Concerning the type of documents, our request specifies "all correspondence (including, but not limited to, emails, letters, and/or telephone call notes) including attachments, the list of meetings with detailed minutes and any other reports of such meetings, all documents prepared for the purpose of these meetings and issued after these meetings, and documents exchanged during the course of these meetings".

4) As for the list of organisations, let us rephrase in the following way, which is similar to requests the Commission routinely receives on lobby groups:

1) all correspondence (including, but not limited to, emails, letters, and/or telephone call notes) including attachments, the list of meetings with detailed minutes and any other reports of such meetings, all documents prepared for the purpose of these meetings and issued after these meetings, and documents exchanged during the course of these meetings between officials of DG Environment, DG Grow, DG Health, DG Clima, the Secretary General, the EC President's Cabinet (including Commissioners and their Cabinet members) AND lobby groups, between January 2019 and now.

As for a prioritisation of our request, please refer to the order our three points:

1. Lobby groups

2. Commission

3. Member States and UK.

Please note that this letter is the second and final part of our reply.

For this second reply, we have identified 16 documents falling in the scope of your request. Please see the details in the attached document register.

Please note that, since some of the documents listed in the attached document register also originate from a third party, the originators have been consulted.

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

- Document 6 can be fully disclosed.
- Documents 3 and 15 cannot be disclosed further to Article 4(2).
- Documents 1, 2, 4, 5, 7 to 11, 12, 13, 14 and 16 will be partially disclosed as some parts contain personal data that have been redacted. Furthermore, parts of documents 4, 12, 13 and 14 have been blacked out further to Article 4(2).

Protection of commercial interests:

Following an examination of documents 3 and 15 under the provisions of Regulation (EC) No 1049/2001 and taking into account the opinion of the third parties, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(2) first indent of this Regulation. Indeed, these documents contain commercially sensitive business information of the companies that submitted them and the authors of the documents have objected to the disclosure of these documents sent to the Commission motivating their position as follows:

- For document 3: the disclosure of the enclosed email could have impact on their commercial strategy and interests.
- For document 15: the document contains sensitive information on production processes.

The same goes for documents 4, 12, 13 and 14, the redacted parts of the documents contain commercially sensitive business information of the companies that submitted them and the authors of the documents have requested redaction of these documents sent to the Commission for the same reasons as for documents 3 and 15.

The exception laid down in Article 4(2) of Regulation 1049/2001 applies, unless there is an overriding public interest in the disclosure of documents. We have examined whether there could be an overriding public interest in the disclosure of those documents, but we have not been able to identify such an interest.

Protection of personal data:

Finally, some parts of the documents 1, 2, 4, 5, 7 to 11, 12, 13, 14 and 16 contain personal data that have been redacted.

A complete disclosure of these 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 staff members not pertaining to the senior management.

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 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

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.

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.

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 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:  [@ec.europa.eu](mailto:_____@ec.europa.eu)

Yours sincerely,

(e-sign)
Kerstin Jorna

Encl.: Document register
14 documents (partially) disclosed