EUROPEAN COMMISSION
HEALTH AND FOOD SAFETY DIRECTORATE-GENERAL
Acting Director General

Brussels,
SANTE/E3/VW/np

By registered mail with acknowledgment of receipt

Advance copy by email:
e-mail: christoph.then@testbiotech.org

Dear Mr Then,

Subject: Your application for access to documents – Ref. GestDem No 2015/3292

We refer to your email dated 19 June 2015 in which you made the request for access to documents registered on 19 June 2015 under the above mentioned reference number.

1. Scope of your request

In your request you asked access to the following documents on the basis of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents: [1]

- *Germany Rapporteur Member State (2015a) Glyphosate Renewal Assessment Report, Volume 1. Report and Proposed Decision. Revised 29th, January 2015.*
- *Germany Rapporteur Member State (2015b) Glyphosate Renewal Assessment Report, Volume 3, Annex B.6.1 Toxicology and Metabolism. Revised 29th, January 2015.*
- *Germany Rapporteur Member State (2015c) List of Endpoints, Active Substance Glyphosate. Report and Proposed Decision. Revised 29th, January 2015.*

[1] Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Mr Christoph THEN
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2. Assessment of the documents

The requested documents originate from the Rapporteur Member State Germany, they are drawn up in accordance with Regulation (EU) No 1141/2010[2] laying down the procedure for the renewal of the inclusion in Annex I to Directive 91/414/EEC of the active substances listed in Annex I to this Regulation.

The requested documents are the revised Renewal Assessment Reports as modified by Germany in January 2015 in accordance with Article 16(3), second paragraph, of Regulation (EU) No 1141/2010.

According to Article 15(2) of Regulation (EU) No 1141/2010 "*Upon request from any interested party, the Authority shall make the renewal assessment report available, excluding any information for which confidential treatment has been requested and is justified pursuant to Article 14 of Directive 91/414/EEC.*"

Therefore, my services have consulted the European Food Safety Authority (EFSA) on your request, with a view to assessing whether an exception to the right of access to documents is applicable.

Having examined the documents and considered the reply from EFSA, we have come to the conclusion that the documents requested are protected in their entirety.

3. Reasons for refusal

According to EFSA, the requested documents contain certain information for which confidential treatment has been granted on the basis of justified reasons set out in Article 14 of Directive 91/414/EEC which concerns the confidentiality of information.

Further, the requested documents are supporting the current on-going peer-review of glyphosate carried out by EFSA and they might be subject to further revisions following experts' consultations in line with Article 16 of Regulation (EU) No 1141/2010. According to EFSA, the disclosure of these documents at this stage of the process will be premature and would seriously undermine EFSA's on-going decision-making process.

Article 4(3), first paragraph, of Regulation (EC) No 1049/2001 lays down the following exception to the right of access to documents: "*Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure*".

In the light of this provision we have considered whether partial access could be granted to the documents and we concluded that the exception laid down in Article 4(3), first paragraph of Regulation (EC) No 1049/2001 applies to the full content of the requested documents.

[2] Commission Regulation (EU) No 1141/2010 of 7 December 2010 laying down the procedure for the renewal of the inclusion of a second group of active substances in Annex I to Council Directive 91/414/EEC and establishing the list of those substances (OJ L 322, 8.12.2010, p. 10).

4. Overriding public interest

The exception to the right of access to documents provided for in Article 4(3), first paragraph, of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the requested documents. 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 could be overridden and we could not identify such grounds either. In these circumstances, we conclude that there is no evidence of an overriding public interest in disclosure of the requested documents in the sense of Regulation (EC) No 1049/2001. The public interest in this case is rather to protect the Commission's and EFSA's on-going decision-making process.

5. Means of redress

May you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the address below. The Secretary-General will inform you of the result of such review within 15 working days from the date of registration of your request. You will either be given access to the documents or your request will be rejected, in which case you will be informed of what further action is open to you.

All correspondence should be sent to the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

pp Ladislav Miko