

EUROPEAN COMMISSION

Secretariat-General

The Secretary-General

Brussels, 29.09.2015
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By registered mail:

Mr Christoph Then
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80807 München
Germany

Copy by email:

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DECISION OF THE SECRETARY GENERAL ON BEHALF OF THE COMMISSION PURSUANT TO ARTICLE 4 OF THE IMPLEMENTING RULES TO REGULATION (EC) N° 1049/2001¹

Subject: Your confirmatory application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2015/3292

Dear Mr Then,

I refer to your e-mail registered on 28 August 2015, by which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents ('Regulation 1049/2001').

In your initial application of 19 June 2015, you requested access to three parts of a draft report, dated 29 January 2015, originating from Germany and drawn up in accordance with Regulation (EU) No 1141/2010 laying down the procedure for the renewal of the inclusion in its Annex I of certain active substances (pesticides), i.e.:

- *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 Official Journal L 345 of 29.12.2001, p. 94.

In its initial reply of 10 August 2015, the Directorate-General for Health and Food Safety (hereinafter, DG SANTE), following consultation of the European Food Safety Authority (EFSA), refused access to the three documents, based on Article 4(3), first subparagraph (*protection of the decision-making process*), of Regulation 1049/2001.

In your confirmatory application, you request access to three parts of the *final* version of the report, i.e.:

- *Germany Rapporteur Member State (2015a) Glyphosate Renewal Assessment Report, Volume 1. Final version;*
- *Germany Rapporteur Member State (2015b) Glyphosate Renewal Assessment Report, Volume 3, Annex B.6.1 Toxicology and Metabolism. Final version;*
- *Germany Rapporteur Member State (2015c) List of Endpoints, Active Substance Glyphosate. Final version.*

Please note that Regulation 1049/2001 provides for a two-stage review of access-to-documents requests, which means that the confirmatory application needs to target (part of) the scope of the initial request. In the present case, however, you request parts of the *final* version of the document concerned, while at the initial stage you asked for the drafts dated 29 January 2015. I therefore consider that your request at the confirmatory level is in essence a new request that would have to be dealt with first at the initial level.

However, in the interest of good administration, I would like to inform you that there is not yet a final version of the Renewal Assessment Report of the Rapporteur Member State concerning glyphosate. Only once the European Food Safety Authority (EFSA) has finalised its report on the peer review process, the Rapporteur Member State Germany will establish the final version of the Renewal Assessment Report.


As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that Regulation applies only to *existing* documents in the possession of the institution. Given that the requested documents do not exist at the time of writing, the Commission is not in a position to handle your request and therefore has not registered your request as a new initial request.

I would also like to inform you that, following EFSA's future conclusion on whether glyphosate can be expected to meet the approval criteria, expected by 30 October 2015, a redacted version of Germany's final Renewal Assessment Report will be made publicly available in the subsequent weeks, by means of addenda to the public consultation version of the report. You will be able to find the report in EFSA's Register of Questions², by introducing the name of the active substance.

² <http://registerofquestions.efsa.europa.eu/roqFrontend/ListOfQuestionsNoLogin?13>

Finally, I would like to draw your attention to the means of redress that are available against this decision, that is, judicial proceedings and complaints to the Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Alexander Italianer