



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

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By registered letter with acknowledgment of receipt

Anne-Marie Kats
Pelagic Advisory Council
Louis Braillelaan 80
2719 EK Zoetermeer, The Netherlands

Advance copy by email: a.kats@pelagic-ac.org

Subject: Your application for access to documents – GESTDEM 2020/6817

Dear Ms Kats,

We refer to your letter of 8 November 2020 in which you make a request for access to documents, registered on the same date under the above-mentioned reference number.

You request access to the *Report on the evaluation of compliance with the landing obligation mackerel in North Sea and North Western Waters 2015-2017*.

The document which you seek to obtain (reference Ares(2020)146084) originates from a third party, in particular the European Fisheries Control Agency (EFCA). Therefore, in accordance with Article 4(4) of Regulation (EC) No 1049/2001 regarding public access to documents, EFCA has been consulted on the possible disclosure of the requested document.

Following an examination of this document under the provisions of Regulation (EC) No 1049/2001 and taking into account the opinion of the third party, I regret to inform you that your application cannot be approved as disclosure is prevented by the exception to the right of access laid down in the third indent of Article 4(2) of this Regulation.

The document which you seek to obtain contains a detailed evaluation of the compliance with the landing obligation of the mackerel fisheries in the North Sea and North Western Waters regions as well as the methodology used to conduct this evaluation, sensitive inspection data and other confidential details. The evaluation was carried out in cooperation with the Member States who are part of the Scheveningen and North Western Waters High Level Groups.

Article 4(2), third indent of Regulation 1049/2001 stipulates that ‘[t]he institutions shall refuse access to a document where disclosure would undermine the protection of [...] the purpose of inspections, investigations and audits.’

The role of EFCA is key in ensuring compliance with the Common Fisheries Policy (CFP) rules. Indeed, the objective of EFCA is to organise the operational coordination of fisheries control and inspection activities by the Member States and to assist them to cooperate so as to comply with the rules of the CFP in order to ensure its effective and uniform application. The Agency also assists the Commission for this purpose.

A disclosure of the document would make public some indications on the compliance of the concerned Member States with the obligation to control the compliance with landing obligation by operators, but also the priorities, procedures and activities of EFCA in the context of assessing such compliance, thus undermining the purpose of future investigations on the subject.

However, in order to ensure transparency, an executive summary of this evaluation was made public by EFCA¹.

Furthermore, EFCA and the High Level Groups of Scheveningen and North Western Waters have already organised a dedicated workshop with PELAC and other stakeholders (The Hague, 5 March 2020) to present the results of this evaluation, including some explanations on the methodology, data used, and replied to questions on the outcome.

Partial access to the requested document is not possible as it is covered entirely by the exception of Article 4(2), third indent of Regulation 1049/2001.

The exceptions laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. In your request, you do not put forward any arguments pointing to an overriding public interest in disclosing the documents requested. We have not been able to identify any public interest capable of overriding the interests protected by Article 4(2), third indent, of Regulation 1049/2001.

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.

¹<https://www.efca.europa.eu/sites/default/files/atoms/files/Executive%20Summary%20MAC%20LO%20Compliance%20Evaluation%20in%20NS%20and%20NWW%202015%20-%202017%20August%202019.pdf>

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-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: sg-acc-doc@ec.europa.eu

Yours faithfully,

[e-signed]
Charlina VITCHEVA