

To: Sandra Gallina, Director-General for Health and Food Safety in the European Commission



Brussels, June 3rd 2021

Subject: delayed transparency around COVID-19 vaccine negotiations

Dear Ms Sandra Gallina,

with this letter I would like to inquire about the Commission's lack of follow-up to promises made in the context of the European Ombudsman's inquiry on public access to documents concerning the purchase of vaccines against COVID-19 (85/2021/MIG and 86/2021/MIG).

The Ombudsman started this inquiry in January, following a complaint by Corporate Europe Observatory (CEO) about the Commission's handling of two FOI requests that we submitted in September 2020.¹ In a letter dated February 17th, DG SANTE responded to the Ombudsman's inquiry, making a number of concrete transparency promises. This included the announcement that CEO would shortly receive a confirmatory decision on our request for access to the vaccine contracts, as well as further information on the assessment of our request for access to additional documents concerning the vaccine negotiations. The Commission promised that CEO would receive a list of the 300+ relevant documents and that documents that can be fully or partially disclosed "will be made progressively available online on a Commission website".

On March 15th you sent us a response, in which you announced the release of redacted versions of the CureVac agreement with the European Commission for the purchase of COVID-19 vaccines, as well as the Commission's agreements with AstraZeneca AB, Sanofi Pasteur and GlaxoSmithKline.² We appreciate the Commission disclosing these documents, but we regret the fact that they are - as with previous contracts released by the Commission - heavily redacted.

Regarding our second FOI request (for access to meeting notes and correspondence between EU vaccine negotiators and pharmaceutical companies), your letter mentioned that the Commission had "so far identified 365 documents that fall within the scope" of CEO's request and you attached a table listing these documents.³ You wrote that the Commission is "progressing with the assessment" of the documents included in the list "in view of their disclosure" and promised that "as soon as the assessment is concluded for each document or group of documents, should it result in a decision to fully or partially disclose and publish the documents, the latter will be made progressively available on a Commission webpage".

1 The inquiry focused on the Commission's handling of two FOI requests: a request for public access to the COVID-19 vaccine contracts (85/2021/MIG) and a request for public access to other documents related to the negotiations pharmaceutical companies (86/2021/MG).
<https://www.ombudsman.europa.eu/en/decision/en/141706>

2 The response is online here: <https://www.asktheeu.org/en/request/8562/response/30558/attach/3/Reply%20Gestdem%202020%205436%20and%20GestDem%202021%200559%201%204%204.pdf>

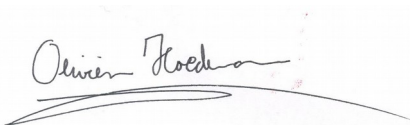
3 The table is online here: <https://www.asktheeu.org/en/request/8562/response/30558/attach/2/List%20of%20Documents%20Gestdem%202020%205436%20and%20GestDem%202021%200559%20FINAL%205.pdf>

It is now 11 weeks ago that we received your letter and we have not heard anything from the European Commission about the 365 documents since then. The European Ombudsman has in the meantime closed the inquiry, on the basis of the Commission's transparency promises.⁴ It has been almost 9 months since we submitted our original FOI request. We are left with the feeling that the EU's access to documents legislation has de facto been suspended for these issues.

You mentioned that the assessment of the documents "involves the consultation of third parties". These third parties, we assume, are the pharmaceutical companies with whom the EU has negotiated. In the light of the extreme delays in disclosing the requested documents, we would be eager to know which role the "consultation of third parties" plays in the delays? The public's right to transparency should not depend on the preferences of Big Pharma about what can be disclosed and when.

At a time when the pandemic is worsening in large parts of the world and solutions must urgently be found for the inadequate global supply of vaccines, there's a clear public interest in transparency around the EU's vaccines procurement negotiations. Further transparency delays would be deeply problematic. It must be possible for the Commission to act fast and start releasing the documents, as promised in the context of the Ombudsman's inquiry.

Yours sincerely,

A handwritten signature in black ink, reading "Olivier Hoedeman", with a horizontal line underneath it.

Olivier Hoedeman
on behalf of Corporate Europe Observatory (CEO)

⁴ "Decision in joint cases 85/2021/MIG and 86/2021/MIG on the European Commission's refusal to give public access to documents concerning the purchase of vaccines against COVID-19": <https://www.ombudsman.europa.eu/en/decision/en/141706>