



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

Brussels,
MARE.E.4/CLV/MLC/cd

Mr. Mike WALKER
Our Fish
Cherbury Court
IRL-A94 P110 BLACKROCK

By registered letter with acknowledgement of receipt
Advance copy by email: mike@our.fish

Subject: Your application for access to documents - GESTDEM 2018/6302

Dear Mr Walker,

We refer to your e-mail requesting access to documents dated 28/11/2018 which was registered on the same day under the above-mentioned reference number.

You request access to the following documents: "*All documents related to the criteria and process for the composition of the EU delegation for the annual bilateral fisheries consultations with Norway for fishing in the North Sea and the Atlantic. Any documents containing records, exchange of letters or e-mails, minutes or notes of meetings/discussions that took place between the Commission and the Member State representatives in preparation of the 2018 EU-Norway fisheries consultations.*"

Regarding the document corresponding to "*the criteria and the process for the composition of the EU delegation for the annual bilateral fisheries consultations with Norway for fishing in the North Sea and the Atlantic*" after an examination of the documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, it appears that these documents contain personal data, in particular the name and contact details of the recipients and sender of the e-mails.

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with the European Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 2018/1725¹.

¹ Regulation (EC) No 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 205 of 21.11.2018, p. 39).

Indeed, Article 3(1) of Regulation 2018/1725 provides that personal data "means any information relating to an identified or identifiable natural person [...]". The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data². Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data³.

In its judgment in Case C-28/08 P (*Bavarian Lager*)⁴, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁵.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, "personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if "[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests." Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725 can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not 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.

² Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](#).

³ Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, paragraphs 43-44, [ECLI:EU:T:2018:560](#).

⁴ Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, [EU:C:2010:378](#), paragraph 59.

⁵ Whereas this judgment specifically related to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

As regard the "*documents containing records, exchange of letters or e-mails, minutes or notes of meetings/discussions that took place between the Commission and the Member State representatives in preparation of the 2018 EU-Norway fisheries consultations*" also mentioned in your request, and after an examination of the documents under the provisions of Regulation (EC) No 1049/2001, I have come to the conclusion that they may be partially disclosed.

- Documents covering negotiating positions of the Commission and of its Member States cannot be disclosed on the basis of Article 4(1), first indent, of Regulation (EC) No 1049/2001 which provides that "*The institutions shall refuse access to a document where disclosure would undermine the protection of (...) international relations*". Release of the above-mentioned documents would clearly undermine the relationship between the EU and Norway, since the considerations expressed in these documents are still valid and would undermine the EU's position vis-à-vis Norway. Therefore, the exception laid down in Article 4(1), first indent, of Regulation (EC) No 1049/2001 applies to these documents.
- You will find attached the minutes of the technical meetings that took place in the framework of the 2018 EU-Norway fisheries consultations, as drafted by DG MARE.

You may reuse the documents attached free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

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 Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

João AGUIAR MACHADO



Enclosure: 4

EU/NORWAY

PREPARATION OF THE FISHERIES CONSULTATIONS FOR 2019

BRUSSELS, 18 OCTOBER 2018

REPORT

The COM reminded the there has been 3 consultations on technical measures in Skagerrak in 2018 (Skagen, London, Goteborg).

The COM presented its non-paper during the Council WP of 27 September. The EU-NO annual consultations were also discussed during an exchange of views in Council 15/10. The COM indicated to MS that the first technical meeting with Norway took place on 2 October. The COM briefly reminded the state of play of the coastal States consultations for the three main pelagic stocks, namely mackerel, Blue whiting and Atlanto-Scandian herring, and the absence of consultation scheduled for red fish.

The agenda was adopted.

1. Management measures for 2019 in the North Sea and the Skagerrak

The Com reminded the full implementation of the landing obligation in 2019, discard plans demersal/pelagic. The COM reminded that the current joint LTMS are no longer applied. This year, the EU Multi-Annual Plan for demersal stocks in the North Sea will apply.

The update of the June advice will be published by ICES on 14 November. The COM indicated that an ICES Representative in Bergen during the consultations.

- TAC and quota levels

Here below the figures from the ICES scientific advices:

NORTH SEA (TABLE I)

- Cod - 47% - additional measures required when using FMSY point value (- 33%)?
- Haddock - 27%
- Saithe + 21%
- Whiting - 18%
- Plaice + 8.6%
- Herring - 39.8% (all fleets) -51,5% (A fleet)

SKAGERRAK (Annex I)

- Whiting: the state of the stock is not known. PA: 400 tonnes

- Pandalus – provisional advice on 26 October; joint LTMS
- Herring (41% of the WB TAC plus 5.7% of the NS TAC)
- Sprat – advice in April 2019

2. Exchange of fishing possibilities

The COM and Members State went through the different tables to discuss the status of the stocks and the exchange possibilities. This is still an early stage as not all the scientific advice are known.

3. Long-term management strategies

A joint LTMS for Pandalus was adopted in April and a joint request made in June to ICES for demersal stock and herring.

4. Technical measures

The Commission updated on the new EU legislation for technical measures state of play.

5. Skagerrak

The Commission presented the progress made in the working group on technical measures in the Skagerrak, in particular with regard to real-time closure for Pandalus and harmonisation of technical measures.

6. Control issues

A new MCS WG for joint stocks: draft TOR to be discussed. A Joint Operational Seminar (JOS) will take place in Aalesund in 2019, details to be further discuss during the consultations.

7. Any other business

Some member States reminded the translation issue and the problem it creates for their fishermen.

Some Member States informed that they were contacted by NGOs with regards to the EU-Norway consultations.

EU/NORWAY

PREPARATION OF THE FISHERIES CONSULTATIONS FOR 2019

BRUSSELS, 22 NOVEMBER 2018, 14:30-17:30 H
DG MARE, ROOM J99 00/53

REPORT

COM reminded the informal non-paper on the preparation of the annual bilateral fisheries consultations with Norway which was presented to the WP on 27 September and then discussed at Council during an exchange of views on 15 October. The COM has issued its proposal for 2019 Fishing Opportunities (COM (2018) 732 final) on 7 November 2018.

1. Management measures for 2019 in the North Sea and the Skagerrak

COM updated MS on the recent provisional scientific advice for *Pandalus* (update from 5 November: Annual TAC change +1.5% for 2019 compared to 2018) and on the 14 November updated ICES advice for haddock (-31% instead of - 27% in June); for saithe (+ 16.4% instead of + 21% in June), for whiting (-22% instead of -18.3% in June) and plaice (+11.1% instead of +8.6% in June).

2. Exchange of fishing possibilities

COM indicated the results of the 48th session of the Joint Norwegian-Russian Fisheries Commission for Arctic cod. For 2019, the available TAC is set at 711,000 tonnes, which means that the EU quota in Svalbard is 26,805 tonnes and the offer in the Norwegian EEZ is set at 29,435 tonnes.

COM reminded the results of the Coastal State consultations for Atlanto-Scandian herring (ie. 2019 TAC: 588,562 tonnes and for blue whiting (2019 TAC: 1,143,629 tonnes. Coastal States consultations on mackerel are still ongoing in London (meeting on 21-22 November).

3. Long-term management strategies

No update

4. Technical measures

No update

5. Skagerrak

No update

6. Control issues

No update

7. Any other business

From: ;)
Sent: mercredi 21 novembre 2018 19:11
To:

Cc:

Subject: For transmission: EU-Norway Annual Consultations (Bergen, 26-30 November)
- Update
Attachments: agenda.nov.docx

[please note that the Commission will mention this update and the few changes tomorrow at the Working Party]

Subject: ***Update on EU-Norway Annual Consultations on fisheries arrangement for 2019 – 26-30 November 2018, Bergen***

The Commission services would like to inform the Delegations of the EU-Norway Annual Consultations on fisheries arrangement for 2019 will take place from 26 to 30 November 2018 in Bergen, Norway (*Norwegian Directorate of Fisheries, Strandgaten 229, Bergen, Norway*). The first plenary will start at 11:00 am on Monday 26 November.

The Coordination meeting will start at 09:15 am on Monday 26 November. Please find an *updated agenda* attached.

Member States who have not done it yet within the deadline should inform as soon as possible of the names of the representatives who will attend this meeting.

From:
Sent: lundi 12 novembre 2018 14:47
To:

Cc:

Subject: Transmission invitation aux EM - EU-Norvège consultations annuelles
Attachments: agenda.nov.docx

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Dear colleagues,

Grateful if you could send to MS the invitation below. In attachment, the agenda for the consultations as sent by Norway.

Kind regards,

**Subject: EU-Norway Annual Consultations on fisheries arrangement for 2019
– 26-30 November 2018**

The Commission services would like to inform the Delegations of the EU-Norway Annual Consultations on fisheries arrangement for 2019 will take place from 26 to 30 November 2018 in Bergen, Norway. The first meeting will start at 10:00 AM on Monday 26 November.

The Coordination meeting will start at 08:30 on the 26 November. Please find the agenda attached. The Commission services will transmit additional working documents later on, if any.

Member States should inform
of the names of the representatives who will attend this meeting
no later than 19 November at close of play.