

**Reply of the European Commission to the recommendation from the European Ombudsman on how the European Commission handled a request for public access to documents concerning the quality of medical masks distributed during the COVID-19 pandemic**

**- Complaint by Mr [REDACTED] ref. 790/2021/MIG**

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## **I. BACKGROUND**

On 4 June 2020, the complainant submitted an initial application for public access to ‘[a]ll e-mails, including attachments, between the Commission and [M]ember [S]tates about the shipment of medical masks delivered to 17 Member States and the UK to protect healthcare workers against coronavirus, as part of the Emergency Support Instrument’<sup>1</sup>.

Following a fair solution proposal, the European Commission’s Directorate-General for Health and Food Safety identified 134 documents as falling within the scope of the request. It granted full access to three documents, wide partial access to 95 documents and refused access to 36 documents. It took into account the replies from the Member States concerned, consulted in accordance with Article 4(4) and (5) of Regulation (EC) No 1049/2001.

In addition to the consultations with the Member States, the Directorate-General for Health and Food Safety consulted the distributor of the masks on the possible disclosure of the documents it sent to the European Commission. However, the Directorate-General for Health and Food Safety did not receive a reply to this consultation.

On 10 November 2020, the applicant submitted a confirmatory application requesting a separate review of the reply of the Directorate-General for Health and Food Safety.

In the confirmatory decision of 21 April 2021, the European Commission granted full access to 21 documents and further access to 52 documents subject only to the redaction of personal data accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001. It confirmed the initial decision of the Directorate-General for Health and Food Safety to disclose 45 documents with only personal data redacted and to refuse access to 12 documents in accordance with the first indent (protection of public security) of Article 4(1)(a) of Regulation (EC) No 1049/2001.

Moreover, it confirmed the initial decision of the Directorate-General for Health and Food Safety to refuse access to three documents (identified in the decision as ‘documents 1, 2 and 4’) and parts of nine documents (‘documents 14, 23, 53, 61, 62, 69, 70, 77 and 97’) based on the exception of the first indent (protection of commercial interests) of Article 4(2) of the same Regulation.

## **II. THE COMPLAINT TO THE EUROPEAN OMBUDSMAN**

On 23 April 2021, the applicant complained to the European Ombudsman that the European Commission was wrong to refuse public access to (parts of) 12 documents based on the protection of commercial interests pursuant to the first indent of Article 4(2) of Regulation (EC) No 1049/2001.

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<sup>1</sup> The request was registered under reference GESTDEM 2020/3437.

### **III. THE EUROPEAN OMBUDSMAN'S INQUIRY AND THE RECOMMENDATION**

In the course of its inquiry, the European Ombudsman examined the 12 documents concerned. On 5 November 2021, the European Ombudsman issued the present recommendation.

In its recommendation, the European Ombudsman acknowledges that the applicant's request concerned one of the busiest services of the European Commission at the time, namely the Directorate-General for Health and Food Safety. The European Ombudsman notes that the request concerned a significant number of documents that were largely disclosed.

In the opinion of the European Ombudsman, the reasons provided by the European Commission are not sufficient to establish the existence of a legitimate and actual risk to the interests invoked in the confirmatory decision, as required by the Union's rules on public access to documents and the related case law.

The European Ombudsman states that 'the public is already aware that there have been quality issues with the first batch of 1.5 million masks. While this information could potentially be used to harm the reputation of the manufacturer concerned, it is unclear how the redacted information, particularly on the specific mitigating measures, could be used to that end. Such a risk might materialise if no mitigating measures had been taken or if the measures proposed by the manufacturer were perceived as inappropriate or inadequate. However, the Ombudsman considers that, if details on the measures were disclosed, the public would be unlikely to take such a view'.

The European Ombudsman argues that 'companies that conduct business with the EU administration, whether directly or indirectly, should expect that certain information is made publicly available. This includes their identity, and where problems occur, information on those problems and the related measure to address them [...]'. Furthermore, '[g]iven that there have been problems with the purchased masks, the Ombudsman considers that there is a strong public interest in knowing what steps have been taken to ensure that no faulty masks were brought into circulation and used'.

Based on the inquiry into this complaint, the European Ombudsman makes the following recommendation:

'The Commission should reconsider its decision to refuse public access to (parts) of the twelve documents at issue based on the need to protect the manufacturer's commercial interests with a view to giving the complainant significantly increased, if not full, access to those documents'.

### **IV. THE REPLY OF THE EUROPEAN COMMISSION TO THE RECOMMENDATION OF THE EUROPEAN OMBUDSMAN**

The European Commission underlines that the request for public access to documents concerned a large number of documents, each of which was identified and assessed upon consultations with the third parties concerned. The European Commission disclosed most documents – in full or in part – to the complainant. These documents contain information, for example, on the European Centre for Disease Prevention and Control (ECDC) allocation methodology, the number of masks distributed, the model of the concerned masks, Member States' views and Member States' needs in relation to masks.

The complaint to the European Ombudsman concerns (parts of) of 12 of the 134 documents identified. These documents contain information concerning an identified manufacturer, including, among other issues, quality control tests, information on mitigating measures and on the commercial relations of the manufacturer vis-à-vis other entities. Three out of 12 documents (documents 1, 2 and 4) were provided to the European Commission by a distributor.

The arguments provided to the European Commission do not question that parts of the documents contain proprietary information from an identified company with which the European Commission had no direct contractual relationship, in addition to other commercial data. To the knowledge of the European Commission's services, the distributor from which the masks were purchased, or the manufacturer of the masks, have not disclosed to the public any of the information reflected the documents, nor have agreed to have it disclosed by the European Commission.

Taking this into account and the possible negative impact that such a disclosure would have on certain business operators based on the assessment of the complex circumstances at the time of the adoption of the confirmatory decision, it was therefore legitimate to conclude that the disclosure of the documents would undermine the commercial interests of the latter. Furthermore, no overriding public interest would have justified disclosure in the light of the content of the information simultaneously disclosed with the full or partial disclosure of the other documents requested.

For the reasons set out above, the European Commission does not agree that there had been maladministration in the adoption of the confirmatory decision of 21 April 2021.

However, in the spirit of furthering transparency, the European Commission has re-assessed the application of the relevant exceptions to the documents at stake taking into account the current factual and legal circumstances following the recommendation of the European Ombudsman, including the passage of time and the possible risk to the protection of the commercial interests of third parties in the current context, almost one year after the adoption of the confirmatory decision.

The European Commission notes that documents 1, 2 and 4 originate from a third party that has not agreed with their disclosure. Considering that the circumstances regarding these very documents have not changed, for the reasons set out above, the European Commission maintains its assessment that these documents cannot be disclosed as their disclosure would undermine the protection of the interest laid down in the first indent (protection of commercial interests) of Article 4(2) of Regulation (EC) No 1049/2001.

Furthermore, the redacted parts of documents 14, 23, 53, 61, 62, 69, 70, 77 and 97 containing personal data cannot be disclosed in accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001 for the detailed reasons outlined in section 2.2 of the European Commission's confirmatory decision of 21 April 2021.

However, the European Commission has concluded that, following the recommendation of the European Ombudsman, further access can be granted to the documents outlined in the recommendation, i.e., documents containing the proposed mitigating measures, with only personal data redacted in accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001.

The European Commission considers that the context, almost one year after the adoption of the confirmatory decision, is different for documents 14, 23, 53, 61, 62, 69, 70, 77 and 97. Based on a renewed assessment of these documents on account of the passage of time, and the evolving situation of the COVID-19 pandemic, there is no clear risk that further disclosure of these documents would undermine, in a reasonably foreseeable and not purely hypothetical manner, the protection of commercial interest of the third parties to which parts of these documents relate.

Hence, the European Commission considers that documents 14, 23, 53, 61, 62, 69, 70, 77 and 97 are no longer covered by the protection of commercial interests in the sense of the first indent of Article 4(2) of Regulation (EC) No 1049/2001.

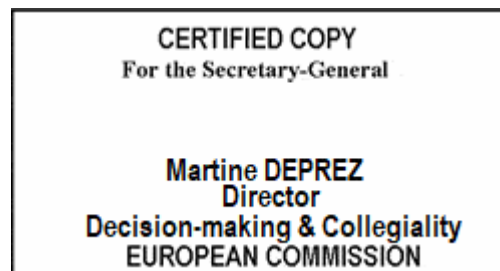
Furthermore, the European Commission understands that any public interest in knowing the details of the specific mitigating measures that were adopted in relation to the masks has been satisfied with the further disclosure that is herewith granted to the documents.

Therefore, please find attached the documents concerned, namely documents 14, 23, 53, 61, 62, 69, 70, 77 and 97, with the corresponding parts unredacted. The European Commission understands that the European Ombudsman will communicate the present reply to the complainant and hereby agrees with the transmission to the applicant of the documents with the additional parts unredacted.

*For the Commission*

*Stella KYRIAKIDES*

*Member of the Commission*



Enclosures: Annex 1 - 9

**From:** SANTE C3 HSC  
**Sent:** jeudi 4 juin 2020 12:36  
**To:** [REDACTED]@bg-permrep.eu'  
**Cc:** [REDACTED]@mh.government.bg'; [REDACTED]@mh.government.bg';  
[REDACTED]@mh.government.bg'; SANTE LUX JOINT PROCUREMENT  
SECRETARIAT; SANTE C3 HSC  
**Subject:** FW: PPE Masks update BG

Dear Colleagues,

Thank you for your email.

The distributor has been working with the manufacturer to rectify the quality issues encountered in the first instalment. As mentioned previously, going forward, all new instalments of the masks upon arrival in the EU will undergo a quality control test and, if positive, will then be distributed to countries. We will be in touch shortly with all countries to advise on updates, future scheduling and process.

The request to destroy the masks from the first instalment which have been distributed is a direct request from the manufacturer and distributor. Their use is destined for healthcare workers only as the masks have no CE certification. Their use by healthcare workers was the sole intention of this product. Due to the quality concerns, however, they are not fit for purpose. It is highly unfortunate that the quality of the masks was not adequate and we apologize for any inconvenience caused, but we reiterate that the masks should be destroyed. Please let us know in advance if there are costs associated to destroying the masks, as the manufacturer has advised that it will cover any costs but would need this information prior to the operation.

Kind regards,

HSC Secretariat

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**From:** [REDACTED]@bg-permrep.eu>  
**Sent:** Monday, June 1, 2020 8:29 AM  
**To:** SANTE C3 HSC <SANTE-C3-HSC@ec.europa.eu>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu>  
**Cc:** [REDACTED]@mh.government.bg; [REDACTED]@mh.government.bg; [REDACTED]@mh.government.bg  
**Subject:** OTH.: PPE Masks update

Dear colleagues,

Thank you for this information.

Destroying any PPE currently, bearing in mind the shortages EU-wide, is in our view neither a sustainable, nor a cost-effective approach.

The Commission had in advance clearly indicated that these masks are not intended for frontline health workers. We had ordered the masks with this understanding in mind: there are needs for masks beyond the medical professionals.

Bearing in mind the announcement by the Commission at the meeting of IPCR last Tuesday, that another 10 Mln masks of the same type (KN 95) will be ordered by the same manufacturer, we do not understand the request to destroy the first delivery. We have not been provided with any official technical report from an EU notified body about the actual problems with that first delivery.

Our suggestion is therefore to test ourselves the KN95 masks delivered already, at national level. Should the tests confirm that the masks can be used for non-medical purpose, we would like to use them.

Looking forward to a confirmation from your side that this approach is acceptable,  
Best regards,

[Redacted]

[Redacted]

*Permanent Representation of Republic of Bulgaria to the EU*  
49, Sq. Marie-Louise  
1000 Brussels  
Tel. +32 [Redacted]

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**От:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu) [SANTE-C3-HSC@ec.europa.eu]

**Изпратени:** 25 Май 2020 г. 16:10

**До:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu); [SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)

**Тема:** PPE Masks update

Dear Colleagues,

As an update to the below, the manufacturer has advised that the masks should now be destroyed in country. If there are costs for destroying the product, please let us know what they are in advance of the operation. Advance information on associated costs is necessary as the manufacturer has advised that it will cover any costs but would need this information prior to the operation.

We look forward to hearing from you on this and thank you again for your cooperation.

Kind regards,

HSC Secretariat

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**From:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>

**Sent:** Wednesday, May 20, 2020 2:34 PM

**To:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>

**Subject:** PPE Masks update

Dear Colleagues,

As an update, the 1.5 million KN95 GB26262006 masks, which have been distributed are not appropriate for use. These masks have been tested in four Member States and the results are negative.

We are in the process of arranging details to recall the products from receiving countries. Please therefore continue to refrain from using these masks and in due course they will be picked up.

Going forward, we are working to ensure an adequate resolution to this quality issue, which will also entail, prior to future distributions, that a quality control test of the actual batch is run in the EU. We will keep you informed of future scheduling as soon as possible.

We take this opportunity to apologize for any inconvenience caused, to reiterate the absolute priority for quality and safety of personal protective equipment and to thank countries for the feedback they have provided so far.

Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat

**From:** SANTE C3 HSC  
**Sent:** jeudi 4 juin 2020 12:33  
**To:** 'trm@dkma.dk'  
**Cc:** SANTE LUX JOINT PROCUREMENT SECRETARIAT; SANTE C3 HSC  
**Subject:** FW: PPE Masks update  
**Attachments:** 20000313 ATP FOD ECON 20200511 BELGIUM.pdf; 444-5\_PZ-CoV\_2020\_NO - POLAND.pdf; Kangling Prüfbericht T20-0740 (002) AUSTRIA.pdf; Eindbeoordelingsformulier - 13052020 Lot 857 NETHERLANDS.docx

Dear Colleagues,

Thank you for your reply.

Given that the manufacturer has asked for these masks to be destroyed, we therefore ask you to destroy these masks and not to repurpose them. Moreover, in line with regulations, these masks may be used for healthcare workers, but, without CE certification, cannot be used for other purposes.

The Chinese manufacturer is 'Guangzhou Kangling Medical Supplies Co Ltd'. Please see attached the results of the different quality control tests which were run. We would ask you to please use this information for internal use only and not for further circulation.

Please let us know if there are any costs incurred with destroying the product, which we will then transmit to the manufacturer, who has indicated they will cover associated costs.

Kind regards,

HSC Secretariat

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**From:** [REDACTED]@dkma.dk>  
**Sent:** Tuesday, May 26, 2020 9:18 AM  
**To:** SANTE C3 HSC <SANTE-C3-HSC@ec.europa.eu>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu>  
**Subject:** SV: PPE Masks update

Dear Colleagues,

In the interest of avoiding waste, the Danish regions have suggested that instead of destroying the masks, they could be repurposed for less demanding purposes. And to that end they would like to see the test results and documentation that found the masks faulty.

Also, we would very much like to know the identity of the supplier, so we can avoid it in the future.

Thanks in advance for sharing any information about the above.

Venlig hilsen / Kind regards

[REDACTED]

T +45

[@dkma.dk](mailto:dkma@dkma.dk)

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*Danish Medicines Agency*  
*Director Generals Office*  
T +45  
[dkma@dkma.dk](mailto:dkma@dkma.dk)



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**Fra:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu) <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>

**Sendt:** 25. maj 2020 16:10

**Til:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu); [SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)

**Emne:** PPE Masks update

Dear Colleagues,

As an update to the below, the manufacturer has advised that the masks should now be destroyed in country. If there are costs for destroying the product, please let us know what they are in advance of the operation. Advance information on associated costs is necessary as the manufacturer has advised that it will cover any costs but would need this information prior to the operation.

We look forward to hearing from you on this and thank you again for your cooperation.

Kind regards,

HSC Secretariat

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**From:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>

**Sent:** Wednesday, May 20, 2020 2:34 PM

**To:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>

**Subject:** PPE Masks update

Dear Colleagues,

As an update, the 1.5 million KN95 GB26262006 masks, which have been distributed are not appropriate for use. These masks have been tested in four Member States and the results are negative.

We are in the process of arranging details to recall the products from receiving countries. Please therefore continue to refrain from using these masks and in due course they will be picked up.

Going forward, we are working to ensure an adequate resolution to this quality issue, which will also entail, prior to future distributions, that a quality control test of the actual batch is run in the EU. We will keep you informed of future scheduling as soon as possible.

We take this opportunity to apologize for any inconvenience caused, to reiterate the absolute priority for quality and safety of personal protective equipment and to thank countries for the feedback they have provided so far.

Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat

**From:** SANTE C3 HSC  
**Sent:** mercredi 27 mai 2020 18:28  
**To:** [REDACTED]@nijz.si'  
**Cc:** [REDACTED]@urszr.si'; SANTE C3 HSC; SANTE LUX JOINT PROCUREMENT SECRETARIAT  
**Subject:** FW: PPE Masks update SI  
**Categories:** To be registered

Dear Colleagues,

Thank you for your reply. These masks should be destroyed and should not be repurposed.

Please let us know in advance if there are any costs incurred with destroying the product, which we will then transmit to the manufacturer, who has indicated they will cover associated costs.

Kind regards,

HSC Secretariat

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**From:** [REDACTED]@nijz.si>  
**Sent:** Wednesday, May 27, 2020 11:43 AM  
**To:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>  
**Cc:** [REDACTED]@urszr.si>  
**Subject:** Re: PPE Masks update

Dear Colleagues,

We understand that donated masks could not be used as PPE2 mask and that tests are negative. Could these masks be used for general protection or it should be destroyed?

Thank you for your help and best regards, [REDACTED]

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[REDACTED]  
[REDACTED]

**NIJZ** Nacionalni inštitut  
za javno zdravje

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>>> <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)> 25. Maj 2020 16:10 >>>

Dear Colleagues,

As an update to the below, the manufacturer has advised that the masks should now be destroyed in country. If there are costs for destroying the product, please let us know what they are in advance of the operation. Advance information on associated costs is necessary as the manufacturer has advised that it will cover any costs but would need this information prior to the operation.

We look forward to hearing from you on this and thank you again for your cooperation.

Kind regards,

HSC Secretariat

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**From:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>

**Sent:** Wednesday, May 20, 2020 2:34 PM

**To:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>

**Subject:** PPE Masks update

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We are in the process of arranging details to recall the products from receiving countries. Please therefore continue to refrain from using these masks and in due course they will be picked up.

Going forward, we are working to ensure an adequate resolution to this quality issue, which will also entail, prior to future distributions, that a quality control test of the actual batch is run in the EU. We will keep you informed of future scheduling as soon as possible.

We take this opportunity to apologize for any inconvenience caused, to reiterate the absolute priority for quality and safety of personal protective equipment and to thank countries for the feedback they have provided so far.

Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat

**From:** SANTE C3 HSC  
**Sent:** lundi 25 mai 2020 16:13  
**To:** 'UKMisBrussels@fco.gov.uk'  
**Cc:** EC UK NON-PARTICIPATION AND EXCEPTIONS; [REDACTED]; [REDACTED],  
[REDACTED]; SANTE LUX JOINT PROCUREMENT SECRETARIAT; SANTE C3 HSC  
**Subject:** PPE Masks update  
**Categories:** To be registered

Dear Colleagues,

As an update to the below, the manufacturer has advised that the masks should now be destroyed in country. If there are costs for destroying the product, please let us know what they are in advance of the operation. Advance information on associated costs is necessary as the manufacturer has advised that it will cover any costs but would need this information prior to the operation.

We look forward to hearing from you on this and thank you again for your cooperation.

Kind regards,

HSC Secretariat

**From:** SANTE C3 HSC  
**Sent:** Wednesday, May 20, 2020 2:35 PM  
**To:** [UKMisBrussels@fco.gov.uk](mailto:UKMisBrussels@fco.gov.uk)  
**Cc:** EC UK NON-PARTICIPATION AND EXCEPTIONS <[EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu](mailto:EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu)>; [REDACTED] <[REDACTED]@dhsc.gov.uk>; [REDACTED], [REDACTED] <[REDACTED]@dhsc.gov.uk>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>  
**Subject:** PPE Masks update

Dear Colleagues,

As an update, the 1.5 million KN95 GB26262006 masks, which have been distributed are not appropriate for use. These masks have been tested in four Member States and the results are negative.

We are in the process of arranging details to recall the products from receiving countries. Please therefore continue to refrain from using these masks and in due course they will be picked up.

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We take this opportunity to apologize for any inconvenience caused, to reiterate the absolute priority for quality and safety of personal protective equipment and to thank countries for the feedback they have provided so far.

Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat

**From:** SANTE C3 HSC  
**Sent:** jeudi 7 mai 2020 17:57  
**To:** [REDACTED]  
**Cc:** [REDACTED] (SANTE); SANTE LUX JOINT PROCUREMENT SECRETARIAT;  
SANTE C3 HSC  
**Subject:** FW: PPE - Masks Update  
**Categories:** To be registered

Dear [REDACTED],

Thank you for the follow up. Details as per below:

- Supplier: ASANUS Medizintechnik GmbH, Gewerbepark 3, D-78579 Neuhausen ob Eck
- Carrier details: Kuehne + Nagel A/S;

Please let us know if anything further is needed.

Kind regards

HSC Secretariat

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**From:** [REDACTED] <[REDACTED]@dhsc.gov.uk>  
**Sent:** Thursday, May 7, 2020 5:19 PM  
**To:** [REDACTED] (SANTE) <[REDACTED]@ec.europa.eu>  
**Cc:** SANTE LUX JOINT PROCUREMENT SECRETARIAT <SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu>; SANTE C3 HSC <SANTE-C3-HSC@ec.europa.eu>  
**Subject:** FW: FW: PPE - Masks Update

Dear [REDACTED],

Thanks for the call earlier. I have been through our records but I do not believe we have all the information. Please see below. Is it possible for the supplier and carrier details to be provided?

- The supplier and carrier details,
- NHS P/O number – We will do this
- Type of product (The NPC Code) – KN95 Protective Face Mask
- Product Description – Protective face mask
- Unit quantity: 50,000
- Number of pallets: None (loose in cartons)

Many thanks,

[REDACTED]



Department  
of Health &  
Social Care

██████████  
UK Health Security

██████████@dhsc.gov.uk

+44 ██████████

39 Victoria Street, 6 Floor North  
London SW1H 0EU

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**From:** NHS PPE Bookings <[nhsppebookings@clippergroup.co.uk](mailto:nhsppebookings@clippergroup.co.uk)>

**Sent:** 07 May 2020 14:51

**To:** UKMisBrussels@fco.gov.uk; Cc: <[EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu](mailto:EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu)>;

██████████@dhsc.gov.uk; ██████████@dhsc.gov.uk;

[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu); [SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)

**Cc:** ██████████@clippergroup.co.uk>

**Subject:** RE: FW: PPE - Masks Update

Hi all

As soon as these arrive at the depot and you require a booking please send the order detail and we will book it in for you

- The supplier and carrier details,
- NHS P/O number
- Type of product (The NPC Code)
- Product Description
- Unit quantity
- Number of pallets

---

**From:** ██████████@clippergroup.co.uk>

**Sent:** 07 May 2020 12:22

**To:** NHS PPE Bookings <[nhsppebookings@clippergroup.co.uk](mailto:nhsppebookings@clippergroup.co.uk)>

**Subject:** FW: FW: PPE - Masks Update

Hi ██████████,

Please find below the email trail for some stock that will be arriving from Germany.  
This is very urgent and high profile stock.

Cheers

██████████

Cheers

■  

---

**From:** [REDACTED] <[\[REDACTED\]@lineone.net](mailto:[REDACTED]@lineone.net)>

**Sent:** 07 May 2020 11:36

**To:** [REDACTED] <[\[REDACTED\]@clippergroup.co.uk](mailto:[REDACTED]@clippergroup.co.uk)>; [REDACTED] <[\[REDACTED\]@clippergroup.co.uk](mailto:[REDACTED]@clippergroup.co.uk)>; [REDACTED] <[\[REDACTED\]@clippergroup.co.uk](mailto:[REDACTED]@clippergroup.co.uk)>

**Subject:** Fwd: FW: PPE - Masks Update

**CAUTION: EXTERNAL EMAIL, do not open unsolicited links or attachments**

All

Please, please stay close to this one and confirm a booking asap, this is exceptionally high profile!

Thanks

■

----- Original Message -----

**From:** [REDACTED] <[\[REDACTED\]@dhsc.gov.uk](mailto:[REDACTED]@dhsc.gov.uk)>

**To:** [REDACTED] <[\[REDACTED\]@lineone.net](mailto:[REDACTED]@lineone.net)>

**Cc:** [REDACTED] <[\[REDACTED\]@dhsc.gov.uk](mailto:[REDACTED]@dhsc.gov.uk)>, [REDACTED]

[REDACTED] <[\[REDACTED\]@dhsc.gov.uk](mailto:[REDACTED]@dhsc.gov.uk)>

**Date:** 07 May 2020 at 10:37

**Subject:** FW: PPE - Masks Update

Hi [REDACTED]

To be aware, the masks have been pushed back a little. Now 1pm tomorrow not 8am. Do let me know if there is a better email for me to send these on to, although it does say they will be in touch with you to arrange final details and they have the more generic email address.

Thanks,

■



[Redacted]

UK Health Security

[Redacted] [@dhsc.gov.uk](mailto:[Redacted]@dhsc.gov.uk)

[Redacted] +44 [Redacted]

39 Victoria Street, [Redacted]

London SW1H 0EU

---

**From:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu) <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>  
**Sent:** 07 May 2020 10:33  
**To:** [UKMisBrussels@fco.gov.uk](mailto:UKMisBrussels@fco.gov.uk)  
**Cc:** [EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu](mailto:EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu); [Redacted] [@dhsc.gov.uk](mailto:[Redacted]@dhsc.gov.uk); [Redacted] [@dhsc.gov.uk](mailto:[Redacted]@dhsc.gov.uk); [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu); [SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)  
**Subject:** FW: PPE - Masks Update

Dear Colleagues,

As a latest update:

- Estimated arrival in UK: 8th May at 1.00 pm

The transport company will reach out to the delivery point of contact which was provided to arrange final details.

Any further updates and we will also keep you informed.

Thank you,

HSC Secretariat

---

**From:** SANTE C3 HSC  
**Sent:** Wednesday, May 6, 2020 1:55 PM  
**To:** [REDACTED]@dhsc.gov.uk' [REDACTED]@dhsc.gov.uk>  
**Cc:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; 'UKMisBrussels@fco.gov.uk' <[UKMisBrussels@fco.gov.uk](mailto:UKMisBrussels@fco.gov.uk)>; EC UK NON-PARTICIPATION AND EXCEPTIONS <[EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu](mailto:EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu)>; [REDACTED]@dhsc.gov.uk' [REDACTED]@dhsc.gov.uk>  
**Subject:** FW: PPE - Masks Update

Dear Colleagues,

Thank you for your email. The latest information we have for the UK arrival is as follows:

- Loading of trucks to UK at Frankfurt starting at 11am on the 7th of May
- Expected departure of truck to UK at 16.00 on 7th May
- Estimated arrival in UK: 8th May at 08.00
- Delivery address in UK:
  - Clipper Logistics
  - [REDACTED] +44 [REDACTED]
  - [REDACTED]
  - UK - [REDACTED] NORTHAMPTON
  - UNITED KINGDOM

Any changes and we will of course keep you up to date.

Kind regards,

HSC Secretariat

---

**From:** [REDACTED] <[REDACTED]@dhsc.gov.uk>  
**Sent:** Wednesday, May 6, 2020 10:28 AM  
**To:** SANTE C3 HSC <SANTE-C3-HSC@ec.europa.eu>; UKMisBrussels@fco.gov.uk  
**Cc:** EC UK NON-PARTICIPATION AND EXCEPTIONS <EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu>; [REDACTED] <[REDACTED]@dhsc.gov.uk>  
**Subject:** RE: PPE - Masks Update

Dear colleagues,

Thank you once again for this very kind offer. To date, I do not think we have received any further information regarding the delivery process. Is there any update you might be able to provide? I am conscious that the masks were expected in Frankfurt today.

Any update would be gratefully received.

Many thanks,

[REDACTED]

  
Department  
of Health &  
Social Care

[REDACTED]

UK Health Security

[REDACTED] <[REDACTED]@dhsc.gov.uk>

[REDACTED] +44 [REDACTED]

39 Victoria Street, [REDACTED]

London SW1H 0EU

---

**From:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu) <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>

**Sent:** 30 April 2020 14:25

**To:** [UKMisBrussels@fco.gov.uk](mailto:UKMisBrussels@fco.gov.uk)

**Cc:** [EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu](mailto:EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu); [REDACTED]  
[REDACTED]@dhsc.gov.uk>; [REDACTED]@dhsc.gov.uk>;

[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)

**Subject:** PPE - Masks Update

Dear colleagues,

As a follow up to the below email, we would like to keep you updated of the current situation and respond to some questions we have received.

These masks have been procured by the Commission (DG SANTE) via the Emergency Support Instrument (ESI). 18 countries expressed interests for the 1<sup>st</sup> instalment of 1.5 million masks. The masks have been allocated as per the attached spreadsheet. The Commission employed the ECDC methodology for 50% of the quantity and then redistributed the remaining 50% across countries, reflecting the different levels of allocations.

### **Timeline**

We would like to also update you on the current tentative timeline for delivery into EU and the respective countries. The first 1.5 million batch will arrive in Frankfurt on the 6<sup>th</sup> and 10<sup>th</sup> of May

- 752000 on 6<sup>th</sup> of May – for delivery to AT, PL; MT CY, UK (Estimated arrival in countries on 8<sup>th</sup> May)
- 748000 on 10<sup>th</sup> May – for delivery to DK; SE; FI; NL; FR; IT; SI; HR; EL; RO; BG; SK; HU (Estimated arrival in countries on 12<sup>th</sup> May)

As we are all aware with the current circumstances, that exact delivery times are subject to change and therefore we will be in touch if there are any changes to the above. The Commission will also shortly be in touch with certain countries as there is some information missing which is required to enable delivery of the masks. In addition, the transport company will also be reaching out to your provided contact points for final delivery arrangements.

### **Methodology**

We would like to thank countries for their prompt replies and input in line with the ECDC methodology. This remains paramount for the good functioning of the ECDC methodology. After this first experience, please let us know if there are any remaining questions as to the functioning of the methodology. For ease, we reattach the ECDC methodology and we also take the opportunity to highlight that the needs expressed by countries should be for a seven day time period. Any questions countries may have on the methodology, please contact [redacted]@ec.europa.eu) who can assist in this regard. Thus, the Commission welcomes any comments or further clarification countries may have and invites you to reach out accordingly and which will also be considered in the first internal assessment of this approach.

Finally, we will also be in touch soon to run the same exercise for the following instalment.

Kind regards,

[redacted]

[redacted]



**European Commission**

Directorate-General for Health and Food safety (SANTE)  
Unit for crisis management and preparedness in health

HITEC Building - Office: [REDACTED]

11, Rue E. Ruppert  
L-2557 Luxembourg

+352 [REDACTED], cell +352 [REDACTED]  
[REDACTED]@ec.europa.eu

**From:** SANTE C3 HSC

**Sent:** Wednesday, April 22, 2020 4:38 PM

**To:** [UKMisBrussels@fco.gov.uk](mailto:UKMisBrussels@fco.gov.uk)

**Cc:** EC UK NON-PARTICIPATION AND EXCEPTIONS <[EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu](mailto:EC-UK-NON-PARTICIPATION-AND-EXCEPTIONS@ec.europa.eu)>; [REDACTED]@dhsc.gov.uk>;

[REDACTED]@dhsc.gov.uk; SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>

**Subject:** PPE masks

Dear Colleagues,

We would like to advise that the European Commission has been able to purchase 10 million KN95 GB2626-2006 masks to support countries in their response to COVID-19.

The product will be coming from China. It is expected to be available in Europe, depending on logistical capacities, from early May – we are currently finalizing dates with the relevant company. The 10 million masks will come in the instalments of 1.500.000 masks into the EU.

We therefore ask you to undertake the following:

1. Express your needs for these masks. As was presented previously, the Commission will be using the ECDC allocation methodology and, as such, we ask you to complete the attached spreadsheet.

The Commission will then compile and advise the allocations based on the needs that have been expressed by countries.

2. Provide the following information:
  - Delivery address with contact person for the goods reception
  - Acceptance times and the information whether the warehouse has a truck ramp or whether the trucks with a lifting platform have to be transported - or according to other requirements
3. Provide this information by **18:00 Wednesday, 22nd April**. Due to the delivery requirements, we are strictly not able to process any further requests for this first instalment after this deadline and we also highlight that we cannot proceed with processing any requests without the above information.

We will run this same exercise for each instalment of masks coming into the EU until the 10 million has been completed. Please therefore understand that for this first instalment, it comprises 1.5 million masks, which will be allocated to countries that provide the above mentioned information. Please note that these masks are fully financed by the European Commission and to express your interest in receiving these masks you are currently only required to follow the above mentioned steps. Finally, this offer is parallel, complementary and absolutely not in competition with any ongoing joint procurements.

Regards,

HSC Secretariat

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**From:** SANTE C3 HSC  
**Sent:** mercredi 20 mai 2020 14:34  
**To:** SANTE C3 HSC; SANTE LUX JOINT PROCUREMENT SECRETARIAT  
**Subject:** PPE Masks update

Dear Colleagues,

As an update, the 1.5 million KN95 GB26262006 masks, which have been distributed are not appropriate for use. These masks have been tested in four Member States and the results are negative.

We are in the process of arranging details to recall the products from receiving countries. Please therefore continue to refrain from using these masks and in due course they will be picked up.

Going forward, we are working to ensure an adequate resolution to this quality issue, which will also entail, prior to future distributions, that a quality control test of the actual batch is run in the EU. We will keep you informed of future scheduling as soon as possible.

We take this opportunity to apologize for any inconvenience caused, to reiterate the absolute priority for quality and safety of personal protective equipment and to thank countries for the feedback they have provided so far.

Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat

**From:** SANTE C3 HSC  
**Sent:** lundi 25 mai 2020 16:10  
**To:** SANTE C3 HSC; SANTE LUX JOINT PROCUREMENT SECRETARIAT  
**Subject:** PPE Masks update

**Categories:** To be registered

Dear Colleagues,

As an update to the below, the manufacturer has advised that the masks should now be destroyed in country. If there are costs for destroying the product, please let us know what they are in advance of the operation. Advance information on associated costs is necessary as the manufacturer has advised that it will cover any costs but would need this information prior to the operation.

We look forward to hearing from you on this and thank you again for your cooperation.

Kind regards,

HSC Secretariat

---

**From:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>  
**Sent:** Wednesday, May 20, 2020 2:34 PM  
**To:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>  
**Subject:** PPE Masks update

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Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat

**From:** [REDACTED]@gesundheitsministerium.gv.at>  
**Sent:** jeudi 4 juin 2020 11:37  
**To:** SANTE C3 HSC  
**Cc:** SANTE LUX JOINT PROCUREMENT SECRETARIAT; S4; [REDACTED]  
**Subject:** AW: PPE Masks update

Dear colleagues,

thank you very much for your efforts and the offer to cover the costs for destroying the masks. We would highly appreciate it, if the costs of **165,00 €** would be taken over and kindly ask you to inform us which further actions are necessary on our part to get the costs covered.

Kind regards

[REDACTED]  
**Austrian Federal Ministry of Social Affairs,  
Health, Care and Consumer Protection**

[REDACTED]  
Radetzkystrasse 2, 1030 Vienna, Austria  
+43 [REDACTED]  
+43 [REDACTED]  
[REDACTED]@gesundheitsministerium.at  
[www.sozialministerium.at](http://www.sozialministerium.at)

---

**Von:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu) <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>  
**Gesendet:** Montag, 25. Mai 2020 16:10  
**An:** [SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu); [SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)  
**Betreff:** PPE Masks update

Dear Colleagues,

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We look forward to hearing from you on this and thank you again for your cooperation.

Kind regards,

HSC Secretariat

---

**From:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>  
**Sent:** Wednesday, May 20, 2020 2:34 PM

**To:** SANTE C3 HSC <[SANTE-C3-HSC@ec.europa.eu](mailto:SANTE-C3-HSC@ec.europa.eu)>; SANTE LUX JOINT PROCUREMENT SECRETARIAT <[SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu](mailto:SANTE-LUX-JOINT-PROCUREMENT-SECRETARIAT@ec.europa.eu)>

**Subject:** PPE Masks update

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We take this opportunity to apologize for any inconvenience caused, to reiterate the absolute priority for quality and safety of personal protective equipment and to thank countries for the feedback they have provided so far.

Please do not hesitate should you have any further questions.

Kind regards,

HSC Secretariat



We are looking into the issue with a matter of urgency. In the meantime, the use of the masks should be refrained until this matter is clarified.

We would appreciate any additional feedback on quality controls run by other countries.

Kind regards,

HSC Secretariat