



P. NIKIFOROS DIAMANDOUROS

Dr Peter C. Gøtzsche
Mr Anders W. Jørgensen
The Nordic Cochrane Centre, Dept. 3343
Rigshospitalet
Blegdamsvej 9
2100 Copenhagen Ø
DANEMARK

Strasbourg, 10 -03- 2009

Complaint 2560/2007/BEH

Dear Dr Gøtzsche and Mr Jørgensen,

On 27 February 2009, EMEA sent its reply to my friendly solution proposal, a copy of which I had forwarded to you on 22 January 2009. In view of EMEA's reply I consider it necessary to make further inquiries in your case.

For this reason, I have asked EMEA for further clarification by 15 April 2009 in relation to the following issues:

*In its reply to the Ombudsman's friendly solution proposal, EMEA exclusively refers to the commercial interests-exception as the legal basis for its refusal to grant access. However, in its reply of 28 April 2008 to the Ombudsman's request for additional information, EMEA considered Article 39(3) of the TRIPs Agreement as constituting a *lex specialis*. Again in its reply of 28 April 2008, EMEA also referred to the great amount of personal data contained in the documents requested which it mentioned again in its reply to the Ombudsman's friendly solution proposal.*

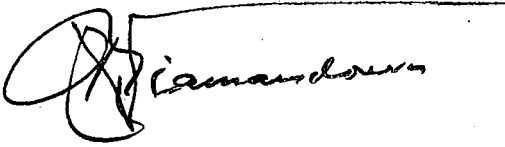
(i) Against this background, could EMEA please specify which relevance, if any, it considers Art 39(3) of the TRIPs Agreement to have for the present case?

(ii) Could EMEA further please specify which relevance, if any, it considers the need to protect the privacy and the integrity of the individual to have for the present case?

(iii) In case EMEA considers Article 39(3) of the TRIPs Agreement of relevance to the question of access in the present case, could EMEA please comment on the Ombudsman's considerations in paragraphs 36 and 37 of his friendly solution proposal?

Once EMEA's reply has been received, I will forward it to you and invite you to make observations on this reply as well as EMEA's reply to the friendly solution proposal. In the meanwhile, please find enclosed EMEA's reply to the friendly solution proposal for your information.

Yours sincerely,

A handwritten signature in black ink, appearing to read "P. Nikiforos Diamandouros". The signature is written in a cursive style and is positioned below a horizontal line that extends across the page.

P. Nikiforos DIAMANDOUROS

Annex: 1