



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION
Directorate A – Strategy, Analysis and Planning
CLIMA.A.1 – Strategic Coordination, Legal & Institutional

Brussels
CLIMA.A.1

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Subject: Your access to documents request with reference Gestdem 2022/2408

Dear Mr Sabido,

We refer to your e-mail dated 11 April 2022 in which you make a request for access to documents, registered on the 24 April 2022 under the above-mentioned reference number.

You requested access to:

- i. *“All correspondence (including email, SMS, private twitter and WhatsApp) since 1st February 2022 between Commissioner Timmermans, and/or his cabinet and/or officials from DG CLIMA with representatives from Wintershall, Uniper Fortum, OMV, RWE, TotalEnergies, ExxonMobil, Shell, BP, Equinor, Eni, Repsol, Galp in which the EU’s response to Ukraine invasion, particularly the rePower communication was discussed.*
- ii. *Any briefings prepared for Commissioner Timmermans, and/or his cabinet and/or officials from DG CLIMA for meetings since 1st February 2022 with representatives from Wintershall, Uniper Fortum, OMV, RWE, TotalEnergies, ExxonMobil, Shell, BP, Equinor, Eni, Repsol, Galp in which the EU’s response to Ukraine invasion, particularly the rePower communication was discussed.*
- iii. *List of meetings since since 1st February 2022 between Commissioner Timmermans, and/or his cabinet and/or officials from DG CLIMA with representatives from Wintershall, Uniper Fortum, OMV, RWE, TotalEnergies, ExxonMobil, Shell, BP, Equinor, Eni, Repsol, Galp in which the EU’s response to Ukraine invasion, particularly the rePower communication was discussed.*
- iv. *Minutes of the meetings mentioned above”*

Your application for access to documents covers topics falling under the responsibility of different Commission services. In that regard, your request was split into two separate requests, whereby each part is attributed to the respective Commission service under a separate Gestdem reference number¹. Each service provides its own, separate reply, which relates only to the documents held by that service. In this regard, this request corresponds only to documents held by the Directorate General for Climate Action (DG CLIMA).

DG CLIMA has identified the following documents within the scope of the first point of your application:

	Author	Date	Reference
1	RWE and others	5 May 2022	Ares(2022)3460591
2	RWE and others	5 May 2022	Ares(2022)3460591

Following an examination of the documents under the provisions of Regulation (EC) No 1049/2001, I regret to inform you that a complete disclosure of document 1 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because it contains: names and contact details of other natural persons and other information relating to an identified or identifiable natural person.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the document, 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.

As regards point iii) of your request, the list of meetings of the Director-General of Directorate-General for Climate Action with organisations and self-employed individuals is available in the link enclosed below:

<http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=d41e42be-7ff1-4635-bb4f-e47d38f886ed>

¹ Gestdem 2022/2409 was treated by the Secretariat General of the Commission.

In your application you request access to a list of meetings of meetings of all staff in the Directorate-General for Climate Action. Please note that the officials of the European Commission having the status of Director-General shall make public information on all meetings held by them with organisations or self-employed individuals on issues relating to policy-making and implementation in the Union in accordance with the Commission Decision 2104/838/EU, Euratom of 25 November 2014². However, the same obligation does not apply to lower-ranking officials, such as the remaining members of the Directorate-General for Climate Action.

As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union.

The Court of Justice held that ‘the right of access to documents of the institutions applies only to existing documents in the possession of the institution concerned and [...] Regulation No 1049/2001 may not be relied upon to oblige an institution to create a document which does not exist. It follows that, [...], an application for access that would require the Commission to create a new document, even if that document were based on information already appearing in existing documents held by it, falls outside the framework of Regulation No 1049/2001’³.

In the present case, the Directorate-General for Climate Action does not hold any list of all meetings of its staff with the specific organisations and self-employed individuals concerned by your request in addition to the publicly available information on meetings of the Director-General, which is accessible via the abovementioned links. In this respect, I would like to confirm that compiling such a list in order to fulfil your request would equal to the creation of a new document, as neither can such a list be extracted from a database by means of a normal or routine search.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Unit C.1. ‘Transparency, Document Management and Access to Documents’
BERL 7/076
B-1049 Brussels, or by email to: sg-acc-doc@ec.europa.eu

² OJ L 343, 28.11.2014, p. 19–21

³ Judgment of the Court of Justice of 11 January 2017, *Typke v European Commission*, C-491/15 P, EU:C:2017:5, paragraph 31.

Yours faithfully,

(Electronically signed)

p.o. Isobel FINDLAY