



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION

The Director General

Brussels,

Ben YOURIEV
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United Kingdom

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Subject: Your application for access to documents – Ref GestDem No 2022/2078

Dear Mr Youriev,

We refer to your e-mail dated 8 April 2022 in which you make a request for access to documents, registered the same day under the above-mentioned reference number.

You requested access to *documents that contain the following information “All correspondence and communications, including emails & meeting notes, sent and received since 01/07/2021, between the Commissioner for Climate Action, DG Clima's Executive Vice-President, Director General or Executive Director-General, and their cabinet, officials, and any other representatives of DG CLIMA, and representatives from BMW Group and its subsidiaries”*.

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

1. Ares(2021)6907421: email exchanges between BMW Group and DG CLIMA dated 11 to 15 October 2021
2. Ares(2022)1023390: email exchanges between BMW Group and DG CLIMA dated 14 to 28 October 2021
3. Ares(2022)1144464: email exchanges between ACEA Auto / BMW Group and DG CLIMA dated 14 to 28 October 2021

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 the identified documents 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 they contain: names and contact information of Commission staff members not pertaining to the senior management; names and contact details of other natural persons, handwritten signatures 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 documents, 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.

Additionally, since documents 1 and 3 originate from a third party, the author of the documents has been consulted. The author of documents 1 and 3 has objected to disclosure of some parts of these documents as they contain “information about confidential business processes”. Therefore, taking into account the opinion of the third party, some parts of documents 1 and 3 have been redacted as they should be protected by Article 4(2) of Regulation 1049/2001 concerning the protection of commercial interests of a natural or legal person.

The exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosure of the documents.

According to settled case-law, it is for the applicant to put forward concrete elements to demonstrate the existence of an overriding public interest in the disclosure of the requested documents¹.

You have not put forward any arguments to demonstrate the existence of an overriding public interest in disclosure. Nor have I been able to identify any public interest capable of overriding the private interest protected by Article 4(2), first and third indent of Regulation (EC) No 1049/2001.

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.

¹ Judgment of the Court of Justice of 29 June 2010, *Commission v Technische Glaswerke Ilmenau* (hereafter referred to as ‘*Commission v TGI judgment*’), C-139/07 P, EU:C:2010:376, paragraph 62, Judgment of the Court of Justice of 28 June 2012, *European Commission v Agrofert Holding*, C-477/10 P, EU:C:2012:394, paragraph 68; Judgment of the Court of Justice of 14 November 2013, *LPN and Finland v European Commission*, Joint Cases C-514/11 P and C-605/11 P, EU:C:2013:738, paragraphs 92 to 94; *Falcon Technologies v European Commission* judgment, cited above, paragraph 84.

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

Yours sincerely,

(e-signed)

Mauro PETRICCIONE
(p.o. Clara DE LA TORRE)