



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Directorate B - Internal Energy Market
B.4 - Security of Supply

Brussels, 08.05.2017
ENER/B4/MC/mp (2017)2684456

Thomas O'Neill
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By email:
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Subject: Your application for access to documents - Ref. GestDem No 2017/1771

Dear Mr O'Neill,

I refer to your application of 20 March 2017, in which you make a request for access to documents in accordance with Regulation (EC) No 1049/2001, registered on 21 March 2017 under the above mentioned reference number.

In particular, you would like to receive access to

- 1) All correspondence, including emails, sent and received since 20/03/2016, between the Commissioner for Energy, his cabinet, his officials, any other representatives of DG Energy, and representatives from Shell.*
- 2) List of meetings, including the meeting's minutes, since 20/03/2016, between officials and representatives of DG Energy and representatives from Shell.*
- 3) All documentation relating to the meetings between Shell and Director-General, Dominique Ristori, on December 8th 2016 and September 26th 2016. This should include all email correspondence, attendance lists, agendas, background papers, minutes/notes.*

- 4) *All documentation relating to the meeting between Shell and Vice-President of the Energy Union, Maroš Šefčovič, on February 27th 2017. This should include all email correspondence, attendance lists, agendas, background papers, minutes/notes.*
- 5) *All documentation relating to the meeting between Shell and Bernd Biervert on February 17th 2017. This should include all email correspondence, attendance lists, agendas, background papers, minutes/notes.*
- 6) *Details of any representative of Shell's response to the consultation "Preparation of a new Renewable Energy Directive for the period after 2020", which closed February 10th 2016.*

We have identified the following documents that fall within the scope of your request:

- Email with attached "Letter to President Jean-Claude Juncker from different energy companies concerning the need for capacity mechanisms to be fully consistent with the EU's climate strategy"
- Email with attached "Request for a meeting with Shell's Executive Director for Integrated Gas and New Energies, Maarten Wetselaar"
- Email with attached "Joint letter from Shell and other companies on support for sustainable biofuels beyond 2020 to meet the ambitious 2030 energy and climate objectives"
- Shell's response to the consultation "Preparation of a new Renewable Energy Directive for the period after 2020"

I am glad to inform you that full access can be granted to the content of these documents. However, some personal data have been withheld in the documents in accordance with Article 4.1(b) of Regulation 1049/2001¹.

In your application you specify that you are interested in interactions with the company Shell. I therefore consider that the other senders are not within the scope of your request, their identity has therefore been redacted (company logo and name, representative name and signature).

Article 4.1 (b) of Regulation 1049/2001 provides that "[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data."

The applicable legislation in this field is 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.²

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

² 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 the free movement of such data, OJ L 8, 12.1.2001, p. 1.

The Court of Justice has ruled that "*where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data*" "*the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety*"³.

Article 2(a) of Regulation 45/2001 provides that "*'personal data' shall mean any information relating to an identified or identifiable natural person [...]*". The Court of Justice has confirmed that "*there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'*"⁴ and that "*surnames and forenames may be regarded as personal data*",⁵ including names of the staff of the institutions.⁶

In accordance with Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish "*the necessity of having the data transferred*" and additionally "*if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced*". The Court of Justice has clarified that "*it is for the person applying for access to establish the necessity of transferring that data*",⁷ including names of the staff of the institutions⁸.

I consider that you have not established the necessity of having the aforementioned personal data transferred to you. Moreover, it cannot be assumed on the basis of the information available that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned.

Please also note that the documents were received by the Commission from a third party. They are disclosed for information only. They do not reflect the position of the Commission and cannot be quoted as such.

In case you would disagree with the assessment that the withheld data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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:

³ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64.

⁴ Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

⁵ Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

⁶ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

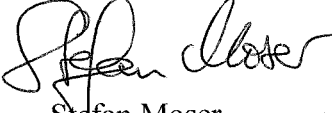
⁷ *Id.*, paragraph 107; see also judgment in *C-28/08 P Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77.

⁸ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

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Yours sincerely



Stefan Moser
Head of Unit