



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Director-General

Brussels, **20 AOUT 2019**
ENER/B2/EI/el D(2019) 5649057

Mrs Belen Balanya
CEO
Rue d'Edimbourg 26
1050 Brussels

by registered mail and by email:
'ask+request-7021-
58c9eb09@asktheeu.org'

Subject: Your application for access to documents – Ref GestDem 2019/3744

Dear Mrs Balanya,

We refer to your email, dated 28/06/2019 and registered under the above mentioned reference number, in which you made a request for access to the following documents under Regulation (EC) No 1049/2001:

“1 - All correspondence (including email) between 1st January 2018 and 28 June 2019 between the Commissioner for Energy and/or his cabinet and/or officials and representatives of DG Energy on one hand and representatives from Eurogas, GasNaturally, the International Association of Oil & Gas Producers (IOGP), Gas Infrastructure Europe (GIE), Marcoga7z, IFIEC Europe, ENTSOE, Eurelectric, Business Europe, CEFIC, Hydrogen Europe, Gas for Climate, Bioenergy Europe, European Biogas Association, National Grid, Open Grid Europe, Enagas, Gasunie, GRTgaz/GRDF/Engie, Terega, Statoil/Equinor, ExxonMobil, Shell, BP, Enagas, Snam, Fluxys, Gazprom, Weber Shandwick, Gplus, Fleishman-Hillard and/or FTI Consulting on the other, in which the gas market reform was addressed.

2 – list of meetings between 1st January 2018 and 28 June 2019 between officials and representatives of DG Energy on one hand and representatives from Eurogas, GasNaturally, the International Association of Oil & Gas Producers (IOGP), Gas Infrastructure Europe (GIE), Marcogalz, IFIEC Europe, ENTSG, ENTSOE, Eurelectric, Business Europe, CEFIC, Hydrogen Europe, Gas for Climate, Bioenergy Europe, European Biogas Association, National Grid, Open Grid Europe, Enagas, Gasunie, GRTgaz/GRDF/Engie, Terega, Statoil/Equinor, ExxonMobil, Shell, BP, Enagas, Snam, Fluxys, Gazprom, Weber Shandwick, Gplus, Fleishman-Hillard and/or FTI Consulting on the other, in which the gas market reform was addressed.

3 – minutes of the meetings mentioned above.”

By e-mail of 12/07/2019, we invited you, pursuant to Article 6(3) of Regulation 1049/2001, to propose a fair solution for dealing with your request for access to documents, registered on 12/07/2019 under the above-mentioned reference number.

We explained that such a fair solution could consist of narrowing down the scope of your request (i.e. the subject matter(s) and/or timeframe covered), so as to reduce it to a more manageable amount of documents. The handling of your application, having regard to the volume of the documents requested, the third parties to be consulted and/or the number of passages to be censured, would involve an unreasonable administrative burden and would be disproportionate.

By e-mail of 19/07/2019, you however refused to narrow down the scope of your request, proposing instead to split it into several separate requests to be processed separately.

As announced in our emails of 12/07/2019 and 22/07/2019, and taking into account the priority indicated in your email of 19/07/2019, we have therefore been obliged to balance your possible interest in access against the workload resulting from the processing of your application. As a result, we have decided to make use of the possibility, provided by the case law of the EU Courts, not to deal with the remainder of your application with a view to safeguarding the interests of good administration ¹.

Consequently, your application is understood to cover:

- 1) Correspondence,
- 2) List of meetings,
- 3) Minutes of the meetings
between DG Energy and “Eurogas, GasNaturally and the International Association of Oil & Gas Producers (IOGP) documents” between 1st January 2018 and 28 June 2019.

Your application (point 1 above) concerns the following documents:

- Email with 2 attachments from GasNaturally of 18/10/2018 to DG Energy on Manifesto of the European Gas Industry
- Email with 1 attachment from Eurogas of 9/01/2018 on “Modification of the Gas Directive – Eurogas response FYI”
- Presentation from Eurogas of 14/02/2018 “Scenario Study with Primes”
- Study from Eurogas registered on 2/5/2018 “A study of scenarios to 2050 by using PRIMES”
- Email with 2 attachments from IOGP of 28/05/2018 on “Draft National Energy & Climate Plans and the role of CCS | IOGP recommendations”
- Email with 1 attachment from IOGP of 13/07/2018 on “IOGP & FuelsEurope Letter on Technical Working Group on Sustainable Finance”

Since the documents concerned originate from third parties, the originators of the documents have been consulted. Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third party who agreed to disclose their documents, with their personal data expunged, I am glad to inform you that wide partial access can be granted to the documents listed above, subject only to redaction of personal data.

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of

¹ Judgment of the General Court of 14 December 2017 in case T-136/15, *Evropaïki Dynamiki v European Parliament*, paragraphs 83 and 102.

the individual, in particular in accordance with European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC² ('Regulation 2018/1725').

In its judgment in Case C-28/08 P (*Bavarian Lager*)³, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁴.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if '[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced.

² Official Journal L 205 of 21.11.2018, p. 39.

³ Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, EU:C:2010:378, paragraph 59.

⁴ Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

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

Concerning point 2 of your request "list of meetings", as we have already informed you, the Commission does not hold lists of "lobby meetings" for officials below Director-General level. Notwithstanding, information on the meetings with the participation of the Commissioner or his Cabinet, or our Director-General is available in the public domain:

https://ec.europa.eu/commission/commissioners/2014-2019/arias-canete_en#calendar

<http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=61569260-525e-42f8-aa52-51d7bfc30d4f>

In relation to point 3 of your request, we regret to inform you that no documents were found that would correspond to the description given in your application.

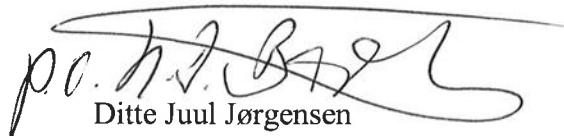
With respect to points 2 and 3 of your request, as specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

In case you would disagree with this assessment, 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 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,


Ditte Juul Jørgensen

Enclosures: 12