



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION

Legal Affairs, Inter-Institutional Relations & Communication

Brussels

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Subject: Your application for access to documents – Ref GestDem No 2021/5970

Dear Ms. Cicculi,

We refer to your e-mail dated 7 October 2021 in which you make a request for access to documents, registered on 8 October 2021 under the above-mentioned reference number.

In an email of 21 October the Directorate-General for Climate Action invited you pursuant to Article 6(2) of Regulation (EC) No 1049/2001 regarding public access to documents¹, to provide more detailed information on the documents that you seek to obtain. In your reply, you clarified that you requested access to the following documents:

“1) For the period between 1 October 2017 to date:

- a list of all meetings and/or calls between the Directorate-General for Climate Action with the following stakeholder: the European Battery Alliance, The European Automobile Manufacturers' Association (ACEA), during which “hydrogen vehicles” and/or “electric vehicles ” and/or “batteries” and/or “hydrogen” were discussed.

2) For the period between 1 of July 2021 to date:

- a list of all meetings and/or calls between the Directorate-General for Climate Action with Vulcan Energie Ressourcen during which “hydrogen vehicles” and/or “electric vehicles ” and/or “batteries” and/or “hydrogen” and/or “lithium” were discussed.

3) For the period between 1 of February 2021 to date:

¹ OJ L 145, 31.5.2001, p. 43–48

- a list of all meetings and/or calls between Directorate-General for Climate Action with Stellantis during which “hydrogen vehicles” and/or “electric vehicles ” and/or “batteries” and/or “hydrogen” and/or “lithium” were discussed.

4) For the period between 1 of January 2018 to date:

- a list of all meetings and/or calls between Directorate-General for Climate Action and Solvay SA during which “hydrogen vehicles” and/or “electric vehicles ” and/or “batteries” and/or “hydrogen” and/or “lithium” were discussed.

The lists should include: date, individuals attending and organisational affiliation, as well as the issues discussed;

- all minutes and other reports of these meetings and/or calls;

- all documents prepared for the purpose of the meetings issued both in preparation and after the meetings took place.

- all correspondence, including attachments (i.e. any emails, mail correspondence or telephone call notes) between the DG- Climate Action and the listed stakeholders, including any Cabinet Members, and any lobby group and/or industry representative discussing hydrogen vehicles” and/or “electric vehicles ” “batteries” and/or “hydrogen” and/or “lithium”,

We note that the scope of the point 1) (ACEA documents) of your request is being currently treated under a different request registered under reference Gestdem 2021/6215. Therefore, this reply covers only points 2), 3) and 4) of your request.

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

	Author	Date	Reference
1	BMW, Hyundai, Stellantis and Toyota Motor Europe	27 April 2021	Ares(2021)2831991
2	BMW, Hyundai, Stellantis and Toyota Motor Europe	27 April 2021	Ares(2021)2831991
3	Solvay	29 October 2021	Ares(2021)6693192
4	Solvay	29 October 2021	Ares(2021)6693192

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 above-mentioned 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 it contains: names of Commission staff members not pertaining to the senior management; 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 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.

Please note that the list of meetings of the Executive Vice-President Timmermans, his Cabinet and the meetings of the Director-General of Directorate-General for Climate Action with organisations and self-employed individuals are available in the links enclosed below:

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

<http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=f1afd532-0d40-4dcd-8e45-667b57075377>

<http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=ec1ecb7e-2615-44eb-895b-6b08637c2a0d>

In your application you requested access to a list of meetings of meetings of all staff in Directorate-General for Climate Action. Please note that the Members of the Commission shall make public information on all meetings held by them and members of their Cabinet with organisations or self-employed individuals on issues relating to policy-making and implementation in the Union in accordance with the Commission Decision 2104/839/EU, Euratom of 25 November 2014². The same obligation applies to officials of the European Commission having the status of Director-General in accordance with the Commission Decision 2104/838/EU, Euratom of 25 November 2014³. 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

² OJ L 343, 28.11.2014, p. 22–24

³ OJ L 343, 28.11.2014, p. 19–21

information already appearing in existing documents held by it, falls outside the framework of Regulation No 1049/2001'⁴.

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

Yours sincerely,

(e-signed)

Luca DE CARLI

⁴ Judgment of the Court of Justice of 11 January 2017, *Typke v European Commission*, C-491/15 P, EU:C:2017:5, paragraph 31.