Subject: Your application for access to documents – Ref GestDem No 2021/6902

Dear Ms Kettlewell,

We refer to your e-mail dated 29 October 2021 in which you make a request for access to documents, registered on 3 November 2021 under the above-mentioned reference number.

You requested access to:

i) “List of meetings/videocalls/calls between 1st December 2020 and 6th May 2021 between officials and/or representatives of the European Commission and stakeholders where the issue of EU taxonomy for sustainable activities was addressed, especially regarding the implementation of gas and nuclear in this regulation.

ii) Minutes of the meetings/videocalls/calls mentioned above.

iii) List of meetings/videocalls/calls between 1st April 2021 and 6th May 2021 between officials and/or representatives of the European Commission and stakeholders where the issue of the implementation of gas and nuclear in the Taxonomy Regulation was addressed, especially information related to the discussion on the JRC report (Ref.Ares(2021)1988129 – 19/03/2021), assessing DNSH aspect of nuclear energy consistent with specification Articles 17 and 19 of the Taxonomy Regulation”.

Your application for access to documents covers topics falling under the responsibility of different Commission services. In that regard, your request has been split into separate requests, whereby each part is attributed to the respective Commission service under a
separate Gestdem reference number. Each Directorate-General service provides its own, separate reply which relates only to the documents held by that service. Therefore, this reply will concern only to documents held by the Directorate General for Climate Action.

DG CLIMA has identified one document that falls under the scope of point ii) of your access to documents requested. The document is registered under reference Ares(2021)2726481.

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 document 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 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.

Furthermore, this document was drawn up for internal use under the responsibility of the relevant official of the Directorate-General for Climate Action. It solely reflects the author's interpretation of the interventions made and does not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

Please note that the list of 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

In the points i) and iii) of your application you requested access to a list of meetings of all staff in 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 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 2104/838/EU, Euratom of 25 November 2014¹. However, the same obligation does not apply to lower-

¹ OJ L 343, 28.11.2014, p. 19–21
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 1049/2001’².

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 link. 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