



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION

DG.003 – Administrative and Legal support, Liaison SRD

Brussels, the 10th February 2016

Ms. Belen Balanya
Corporate Europe Observatory
Rue d'Edimbourg 26
1050 Brussels

Advance copy by email: ask+request-2470-6022e751@asktheeu.org

By registered letter with acknowledgment of receipt

Subject: Your application under Regulation (EC) 1049/2001 for access to documents - GestDem 2015/6667

Dear Ms. Balanya,

I refer to your e-mail dated 16th December 2015 in which, pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, you initiated a request, which was registered under GestDem 2015/6667.

In your application you asked the Commission to provide you with all correspondence (including email) since 9th July 2015 between the Commissioner for Climate Action and/or his cabinet and/or officials and representatives of DG CLIMA on the one hand and representatives from BusinessEurope, CEFIC, Eurofer, the European Roundtable for Industrialists (ERT), the Alliance of Energy Intensive Industries, Gas Naturally, Center for European Policy Studies (CEPS), Eurelectric, Cembureau, ZEP (Zero Emissions Platform), RWE, Repsol, Shell, ArcelorMittal, BASF and/or Lafarge on the other hand, in which the issue of the review of the EU ETS Directive was addressed.

Please be informed that we have identified the documents covered by your request and in annex you will find an overview of the documents as well as copies of the identified documents. Having carefully examined your request and the documents concerned, I am pleased to inform you that full access can be granted to documents under numbers 1a, 1b, 4, 6a, 6b, 9a, 10b and 10c while partial access can be granted to the remaining documents.

Since the documents concerned originate from third parties, the authors of the documents have been consulted in accordance with Art.4 (4) of the Regulation (EC) No 1049/2001.

The documents to which you have requested access contain personal data. Please note also that all personal data of the EU officials, except those working for the Cabinet in the documents have been blanked out.

Article 4(1)(b) of the Regulation No 1049/2001 provides that "*the 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*".

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document or to a part of it has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with the EU 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 data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable². According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

In case you would disagree with the assessment that the expunged 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:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Rudy van Horenbeek
Head of the Administrative and Legal Support

¹ OJ L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, not yet reported