



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
CLIMATE ACTION  
The Director-General

Brussels,

*By registered letter with acknowledgment of receipt*

Jesús ESCUDERO  
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*Advance copy by email:*  
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**Subject: Your request for access to documents - GestDem 2016/5525**

Dear Mr Escudero,

We refer to your letter e-mail dated 3 October 2016 in which you make a request for access to documents, registered on 5 October 2016 under the above mentioned reference number.

You request access to correspondence (including email) between the Commissioner for Climate Action and Energy or his cabinet with members of the Spanish Government, including President, Ministers, Secretaries of State and General Directors, between 1 November 2014 and 30 September 2016.

Your application concerns the following documents:

	ares	date	sender	subject
1	ares(2015)654451	16/02/2015	Miguel Arias Cañete	common strategy paper
2	ares(2015)1163925	17/03/2015	Garcia Tejerina Isabel	invitation IETA
3	ares(2015)1523347	09/04/2015	Soria Lopez Jose Manuel	high-level group on interconnections for SW Europe
4	ares(2015)2070963	18/05/2015	Miguel Arias Cañete	reply to HLG SWE
5	ares(2015)2401034	09/06/2015	Nadal Belda Alberto	meeting request
6	ares(2015)4802212	29/10/2015	Garcia Tejerina Isabel	climate finance
7	ares(2015)5031691	10/11/2015	Soria Lopez Jose Manuel	ensuring that all vehicles manufacturers in Spain comply with legal obligations
8	ares(2015)5183905	17/11/2015	Soria Lopez Jose Manuel	real emissions of vehicles in Spain
9	ares(2016)78294	07/01/2016	Garcia Tejerina Isabel	VW reply from Spain
10	ares(2016)863078	16/02/2016	Miguel Arias Cañete	progress report on the high-level group on interconnections for SW Europe

	ares	date	sender	subject
11	ares(2016)1897007	24/02/2016	Soria Lopez Jose Manuel	interconexiones
12	ares(2016)2921431	23/06/2016	Nadal Belda Alberto	reference scenario 2016
13	ares(2016)3838390	22/07/2016	Miguel Arias Cañete	Paris ratification letter
14	ares(2016)4076543	03/08/2016	Garcia Tejerina Isabel	la lucha contra el cambio climatico
15	ares(2016)4971105	05/09/2016	Nadal Belda Alberto	carbón
16	ares(2016)5107158	07/09/2016	Miguel Arias Cañete	reply to reference scenario 2016

Documents 1-6 and 9-16 are enclosed to this letter.

These documents contain personal data, in particular biometric data (signatures), direct phone numbers and email addresses.

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 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<sup>1</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>2</sup>.

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/or 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.

Please note that documents 2, 3, 5, 6, 9, 11, 12, 14, and 15 were received by the Commission from Spanish authorities. They are disclosed for information only, they do not reflect the position of the Commission and cannot be quoted as such.

Since documents 2, 3, 5-9, 11, 12, 14, and 15 originate from third parties (Spanish authorities), 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 parties, I regret to inform you that your application cannot be granted

<sup>1</sup> Official Journal L 8 of 12.1.2001, p. 1

<sup>2</sup> Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

for documents 7 and 8, as disclosure is prevented by an exception to the right of access laid down in Article 4 of this Regulation.

The author of documents 7 and 8 has objected to their disclosure has motivated its position as follows:

These documents are referring to ongoing judicial procedures before the 'Juzgado de Instrucción' of the High Court (Audiencia Nacional) for environmental crime and fraud, and their disclosure would be detrimental to the protection of these legal proceedings. In accordance with Article 4.2, second indent, of Regulation 1049/2001, access to such documents shall be denied unless there is an overriding public interest.

Based on the information at my disposal, I have not been able to establish the existence of an overriding public interest in disclosure of documents 7 and 8.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled 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 5/282  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

  
Arthur Runge-Netzer  
Deputy for  
Jos DELBEKE

Enclosure: documents 1-6 and 9-16