



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

The Director-General

Brussels,
ENER.A.1/PP/AV (2019)1919980

By registered letter
with acknowledgment of receipt

Mr Peter Teffer
EUobserver
Rue Montoyer 18B
1000 Brussels
Belgium

Advance copy by email:
ask+request-6103-c70d0317@asktheeu.org

Subject: Your application for access to documents – Ref GestDem No 2018/6056

Dear Mr. Teffer,

I refer to your e-mail dated 08/11/2018 in which you make a request for access to documents, registered on 19/11/2018 under the above-mentioned reference number in which you request:

- 1. All documents related to the 6-11-2018 meeting between Helena Braun and European Climate Foundation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- 2. All documents related to the 4-9-2018 meeting between several Commission officials and European Climate Foundation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- 3. All documents related to the 3-9-2018 meeting between Director-General Dominique Ristori and European Climate Foundation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- 4. All documents related to the 26-6-2018 meeting between Commissioner Miguel Arias Cañete and European Climate Foundation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations.*

Six documents were found that meet the points 1 and 3 of your request. No document were found regarding the meetings mentioned on points 2 and 4.

Ares(2018)5535700	29/10/2018	Meeting with Helena Braun – Meeting request (email)
Ares(2018)5914057	19/11/2018	Meeting with Helena Braun – Follow-up documents (email)
Ares(2019)276965	17/01/2019	Meeting with Helena Braun – Presentation “Net Zero By 2050: From Whether To How”
Ares(2019)276965	17/01/2019	Meeting with Helena Braun – Presentation “Funding Innovation to Deliver EU Competitive Climate Leadership”
Ares(2019)1670095	13/03/2019	Meeting with Director-General Dominique Rostori – Briefing
Ares(2019)276917	17/01/2019	Meeting with Director-General Dominique Rostori – Presentation “2050 scenario analysis using the EU CTI 2050 Roadmap Tool”

We can give you full access to the two presentations registered under Ares(2019)276965. We can also give you partial access to the four other documents, which you find annexed to this letter. The part to which we have to refuse access concerns names, signatures and other personal data, for the following reasons:

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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EC) No 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/EC1 (‘Regulation 2018/1725’)

Article 3(1) of Regulation 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.²

In the present case, the documents mentioned above contain personal data, regarding third parties and Commission staff.

Regarding personal data pertaining to Commission staff, please note that the names, signatures, functions, telephone numbers and/or initials of an institution are considered personal data.³

In its judgment in Case C-28/08 P (Bavarian Lager)⁴, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable⁵.

¹ Official Journal L 205 of 21.11.2018, p. 39.

² Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, Peter Nowak v Data Protection Commissioner, request for a preliminary ruling, paragraphs 33-35, ECLI:EU:C:2017:994.

³ Judgment of the General Court of 19 September 2018 in case T-39/17, Port de Brest v Commission, paragraphs 43-44, ECLI:EU:T:2018:560.

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.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that for instance such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation 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.

As to the handwritten signatures, which are biometric data, there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned.

In case you would disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, you are entitled, in accordance with Article 7(2) of Regulation 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 5/282
B-1049 Bruxelles, or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

(e-signed)
Dominique Ristori

Enclosures: Documents Ares(2018)5535700, Ares(2018)5914057, Ares(2019)276965, Ares(2019)1670095 and Ares(2019)276917

⁴ 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.

⁵ 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.