



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 2021/6215

Dear Ms. Cicculli,

We refer to your e-mail dated 11 October 2021 in which you make a request for access to documents, registered on 18 October 2021 under the above-mentioned reference number.

You requested access to the following documents:

“For the period between 1 October 2017 to date:

- a list of the meeting and/or calls between The European Automobile Manufacturers’ Association (ACEA) and the Directorate-General for Climate Action, including any Cabinet Members and/or officials, during which “hydrogen vehicles” and/or “electric vehicles ” and/or “batteries” and/or “hydrogen” were discussed.

The list should include: date, individuals attending and organisational affiliation, as well as the issues discussed;^[1]_[SEP]

- all minutes and other reports of these meetings and/or calls;^[1]_[SEP]

- 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 Directorate-General for Climate Action and the The European Automobile Manufacturers’ Association (ACEA), including any Cabinet Members and/or officials, and any lobby group and/or industry representative discussing “hydrogen vehicles” and/or “electric vehicles ” and/or “batteries” and/or “hydrogen”.

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

	Author	Date	Reference
1	European Commission	21 October 2019	Ares(2019)6481722
2	European Commission	10 September 2018	Ares(2018)4629565
3	ACEA	10 September 2018	Ares(2018)4629565
4	ACEA	10 September 2018	Ares(2018)4629565
5	European Commission	6 December 2017	Ares(2017)5970847
6	European Commission	22 February 2019	Ares(2019)1131144
7	ACEA and others	11 February 2021	Ares(2021)1187214
8	ACEA	19 March 2020	Ares(2020)1678236
9	European Commission	29 April 2020	Ares(2020)2288463
10	ACEA	16 January 2021	Ares(2020)278140
11	ACEA	20 August 2021	Ares(2020)278169
12	ACEA	5 February 2020	Ares(2020)733148
13	ACEA	5 February 2020	Ares(2020)733148
14	ACEA	5 February 2020	Ares(2020)733148
15	ACEA and others	11 February 2021	Ares(2021)1187214
16	European Commission	31 January 2020	Ares(2020)1960701
17	ACEA and others	1 July 2021	Ares(2021)4298683
18	ACEA and others	1 July 2021	Ares(2021)4298683

19	CLEPA	5 May 2020	Ares(2020)2374768
20	ACEA	20 May 2021	Ares(2021)3391358
21	CLEPA	5 May 2020	Ares(2020)2374768
22	ACEA	21 May 2021	Ares(2021)3391358
23	CLEPA	5 May 2020	Ares(2020)2374768
24	ACEA/European Commission	11 March 2021	Ares(2021)5044600
25	CLEPA	5 May 2020	Ares(2020)2374768
26	ACEA	11 March 2021	Ares(2021)5044600
27	ACEA/European Commission	15 April 2021	Ares(2021)2560764
28	ACEA/European Commission	19 April 2021	Ares(2021)2560764
29	ACEA	13 April 2021	Ares(2021)2529503
30	ACEA	13 April 2021	Ares(2021)2529503
31	ACEA	15 September 2020	Ares(2020)4878199
32	ACEA	15 September 2020	Ares(2020)4878199
33	ACEA and others	20 November 2020	Ares(2020)6995329
34	ACEA and others	20 November 2020	Ares(2020)6995329

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 documents 1, 2, 4-12, 14,

15, 17, 18, 20-22, 24-34 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 above-mentioned 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.

Furthermore, documents 1, 6 and 16 were drawn up for internal use under the responsibility of the relevant officials of the Directorate-General for Climate Action. They solely reflect the author's interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which were not consulted the content. They do not reflect the position of the Commission and cannot be quoted as such.

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 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 2014¹. 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 2014². However, this

¹ OJ L 343, 28.11.2014, p. 22–24

² OJ L 343, 28.11.2014, p. 19–21

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 information already appearing in existing documents held by it, falls outside the framework of Regulation No 1049/2001’³.

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

³ Judgment of the Court of Justice of 11 January 2017, *Typke v European Commission*, C-491/15 P, EU:C:2017:5, paragraph 31.