



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION
Directorate A – Strategy, Analysis and Planning
CLIMA.A.1 – Strategic Coordination, Legal & Institutional

Brussels
CLIMA.A.1

Ms Belen Balanya
Corporate Europe Observatory
Rue d'Edimbourg 26
B - 1050 Bruxelles

By email to: ask+request-10979-ba0671d7@asktheeu.org

Subject: Your access to documents request with reference Gestdem 2022/2106

Dear Madam,

We refer to your e-mail dated 7 April 2022 in which you make a request for access to documents, registered on 11 April 2022 under the above-mentioned reference number.

You requested access to:

- i) “All correspondence (including email, SMS, private twitter and WhatsApp) since 1st February 2022 between Commissioner Timmermans, and/or his cabinet and/or officials from DG Clima with representatives from the oil and gas industry, energy industrial users, hydrogen and biomethane industry, trade groups and/or lobby/PR firms in which the EU’s response to Ukraine invasion, particularly the rePower communication was discussed.*
- ii) List of meetings since since 1st February 2022 between Commissioner Timmermans, and/or his cabinet and/or officials from DG Clima with representatives from the oil and gas industry, energy industrial users, hydrogen and biomethane industry, trade groups and/or lobby/PR firms in which the EU’s response to Ukraine invasion, particularly the rePower communication was discussed.*
- iii) Minutes of the meetings mentioned above.”*

Your application for access to documents covers topics falling under the responsibility of different Commission services. In that regard, your request was split into two separate requests, whereby each part is attributed to the respective Commission service under a separate Gestdem reference number¹. Each service provides its own, separate reply, which

¹ Gestdem 2022/2106 (DG CLIMA) and Gestdem 2022/2108 (SG - for Cabinet of Executive Vice-President Timmermans).

relates only to the documents held by that service. In this regard, this request corresponds to the documents held by the Directorate General for Climate Action only.

DG CLIMA has identified following documents within the scope of the application.

1. Ares(2022)1411041: email from ENEL to Director General Mauro Petriccione dated 23 February 2022
2. Ares(2022)1411041: ENEL's observations to the Communication
3. Ares(2022)1934603: minutes of the meeting between DG Climate Action and Breakthrough Energy on 9 March 2022
4. Ares(2022)2259339: email exchange from Gas Naturally to Executive Vice-President Timmermans dated 25 March 2022
5. Ares(2022)2259339: GasNaturally reaction to the EU Council conclusions
6. Ares(2022)2416048: email from ePure to Executive Vice-President Timmermans dated 30 March 2022
7. Ares(2022)2416048: Joint statement from the EU Biofuels Chain on the European Commission Communication on food security.

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 identified documents 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 they contain: names and contact information 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 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.

As regards point ii) of your request, please note that the list of meetings of the Director-General of Directorate-General for Climate Action with organisations and self-employed individuals is available in the link enclosed below:

<http://ec.europa.eu/transparencyinitiative/meetings/meeting.do?host=d41e42be-7ff1-4635-bb4f-e47d38f886ed>

In your application you request access to a list of meetings 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 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 2014². However, the same 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.

Please note that document 3 was drawn up for internal use under the responsibility of the relevant officials of DG CLIMA. 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 were not consulted on the content. It does not reflect the position of the Commission and cannot be quoted as such.

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 faithfully,

(Electronically signed)

Luca DE CARLI
Head of Unit

² OJ L 343, 28.11.2014, p. 19–21

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.