



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT

The Director- General

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Mrs Ronja HEISE
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Subject: Your application for access to documents – Ref GestDem No 2017/1919 and 2017/2422

Dear Mrs Heise,

I refer to your e-mail of 17 March 2017 in which you make a request for access to documents, registered on 29 March 2017 under the reference number GestDem No 2017/1919. Your application concerns:

'All correspondence (including e-mails) between the Commissioner for Environment and/or his cabinet and/or officials and representatives of DG Environment on one hand and representatives of fertiliser producers and fertilizer interest groups on the other hand (such as Fertilizer Europe, European Fertilizers Import Association, European Sustainable Phosphorus Platform, European Crop Care Association, Nutrient Platform, YARA S.A, Association for a better European Access to Nutrients, Asociación Nacional de Fabricantes de Fertilizantes (ANFFE), Association des Producteurs Européens de Potasse (APEP), Hellenic Fertilizer Association, CEN Technical Committee 260, European Consortium of the Organic-based Fertilizer Industry (ECOFI), European Organic Fertilizers Manufacturers Association (EUROFEMA), Alliance Européenne des Engrais Phosphatés (AEEP), European Biostimulants Industry Council (EBIC), Agricultural Industries Confederation (AIC), Mosaic, The Fertiliser Institute, International Fertiliser Industry Association, International Plant Nutrition Institute) concerning the issue of the EU Emission trading System and/or natural gas import and production and/or unconventional gas exploitation (shale gas/ "fracking").

- A list of all meetings between the above mentioned actors
- Minutes of meetings listed above'

By your mail of 20 April 2017 you indicated to us that:

'I would like to extend the scope of my request to cover additionally:

- any communication (including e-mails) and/or meetings (including minutes and notes of these meetings) between the above mentioned actors on the topic of the 2030 climate and energy framework*
- any communications (including e-mails) and/or meetings with following actors on the above mentioned topics (EUETS, unconventional gas exploitation and the 2030 climate and energy framework) with following actors:*
- the international federation of industrial energy consumers*
- European Chemical Industry Council (CEFIC)*
- Agricultural Industries Confederation (AIC)*
- and Prospero & Partners'.*

Your mail was registered as a new request linked to the previous one under the reference number GestDem No 2017/2422.

By the letter of 24 April 2017 (Ares(2017) 2085078) the deadline for reply concerning the first application was extended to 17 May 2017. The initial deadline for the second application expires also on 17 May 2017.

My services took note of your reply to their request of 12 May 2017 by which you were asked to provide a phone number where you can be reached to notify the reply by DHL. You indicated that *'I would prefer to receive the documents as a digital version whenever possible'*, without indicating any phone number. Therefore, this reply will be provided to you only by E-mail, without any notification by DHL.

I would like to point out that:

- the EU Emission trading System (EUETS) and the 2030 climate and energy framework do not fall in the competence of DG Environment (DG ENV) but other Directorates-General within the Commission;
- the searches about your requests were carried out for the documents possessed by Commissioner Vella and his Cabinet as well as within DG ENV.

Concerning your first application no document was identified in the searches mentioned. As specified in Article 2(3) of Regulation (EC) n. 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution. Given that no such documents have been identified, my services are not in a position to handle your request as far as DG ENV or Commissioner Vella and his Cabinet are concerned.

Concerning your second application I am pleased to inform you that since November 2014, the former unit DG ENV.F1 had the following contacts with CEFIC, the only actor amongst the federation you mentioned with which DG ENV has had contacts:

- **24 March 2015:** meeting at CEFIC premises for an exchange of views on the Hydrocarbons guidance document at the meeting of the CEFIC Hydraulic fracturing taskforce (see attached e-mail of invitation);

- **29 April 2015:** meeting at IOGP (International Association of Oil & Gas Producers) premises for a presentation of a draft Generic Exposure Scenario on Hydraulic Fracturing (CEFIC attended the meeting);
- **18 May 2015:** meeting at DG ENV premises with other stakeholders on chemicals used for hydraulic fracturing (CEFIC attended the meeting) (see attached e-mail of invitation);
- **13-15 October 2015:** Kick off meeting of the Technical working group (TWG) for the guidance document on Best Available Techniques for hydrocarbons (CEFIC attended the meeting and is a member of the TWG)
- **26-28 October 2016:** Second meeting of the Technical working group for the guidance document on Best Available Techniques for hydrocarbons (CEFIC attended the meeting).

However, the documents mentioned above contain personal data, in particular, name, phone number and E-mail address of the sender and the recipients.

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 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.

I 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, I am disclosing the documents requested expunged from this personal data.

~~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 or concerning your first application for which no document was found, 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 reply to the Secretary-General of the Commission at the following address:

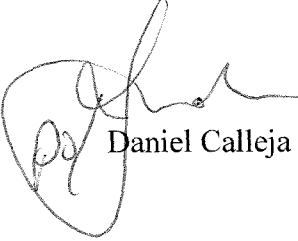
¹ Official Journal L 8 of 12.1.2001, p. 1

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, ECR 2010 I-06055.

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

Yours sincerely,



Daniel Calleja

Attachments: 2
