



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate B - Investment, Innovative & Sustainable Transport
B.4 - Sustainable & Intelligent Transport

Brussels
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Subject: Your application for access to documents – EASE 2023/4503

Dear Madam,

We refer to your request for access to European Commission documents registered on 28 July 2023 under the above-mentioned reference number.

You request access to:

1- All correspondence (including email, SMS, private twitter and WhatsApp) between formers or the present transport Commissioner, or members of his/her cabinet, or any other representatives of DG Move, on the one side; and representatives of 'Concawe', or Representatives of 'Fuels Europe', or with PR companies or law firms representing 'Concawe' or 'Fuels Europe' in which the following topics were discussed : "air pollutant emissions standards for combustion-engine vehicles (Euro 6 or 7)" or "air quality directive" or "auto/oil programme" or "air quality modelling" .

2- All briefings, minutes of meetings, and correspondence between between formers or the present transport Commissioner, or members of his/her cabinet, or any other representatives of DG Move, on the one side; and representatives of 'Concawe', or Representatives of 'Fuels Europe', or with PR companies or law firms representing 'Concawe' or 'Fuels Europe' in which the following topics were discussed : "air pollutant emissions standards for combustion-engine vehicles (Euro 6 or 7)" or "air quality directive" or "auto/oil programme" or "air quality modelling" .

In 22 August 2023 we presented you with a proposal for a fair solution, pursuant to Article 6(3) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾ (hereinafter 'Regulation (EC) No

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

1049/2001’), suggesting to narrow down the scope of your application to documents relating to meetings held by Commissioner Adina-Ioana Vălean and the members of her Cabinet with the organisations concerned, for a period between 1 December 2019 and the date of registration of your request, and relating to the topics which you mention in your application. After further exchanges held in 24 and 25 August 2023, you kindly accepted our proposal for a fair solution.

Despite the fact that the topics which you mention in your application do not fall within the remit of DG MOVE policy areas, we were nevertheless able to identify the following documents as falling within the scope of your application:

Annex 1: E-mail exchange between a member of Fuels Europe and members of the Cabinet of Commissioner Vălean, with the subject “*Request for video call to present the Clean Fuels for All strategy*”, dated between 29 June and 1 September 2020;

Annex 2: E-mail exchange between representatives of Fuels Europe, staff and members of the Cabinet of Commissioner Vălean between 1 September and 30 November 2020, with the subject matter “*Video Call with Commissioner Vălean to present the Clean Fuels for All strategy*”, containing the following attachment:

- **Annex 2.1:** Presentation of Fuels Europe on “*the Pathway for the European Refining Industry to Climate Neutrality*”, dated 30 November 2020;

Annex 3: E-mail from a member of Fuels Europe to a member of the Cabinet of Commissioner Vălean, with the subject “*Refinery Forum and Euroelectric event*”, dated 21 January 2021, containing the following attachment:

- **Annex 3.1:** Draft agenda of the Tenth High level EU Refining Forum, to be held on 18 February 2021;

Annex 4: E-mail from a member of Fuels Europe to a member of the Cabinet of Commissioner Vălean, with the subject “*Invitation for Ms. Vălean*”, dated 8 February 2021, containing the following attachment:

- **Annex 4.1:** Synopsis and agenda of the Online Policy Debate on “*Should the EU urgently launch a Low Carbon Liquid Fuels Strategy?*”, to be held on 3 March 2021;

Annex 5: Letter of invitation for a meeting from the Fuels Value Chain Coalition to a member of the Cabinet of Commissioner Vălean, with the subject “*Request for a meeting/video conference with representatives of the automotive, fuel, and energy industry on the contribution of renewable fuels to climate neutrality and economic growth*”, dated 10 March 2021;

Annex 6: E-mail exchange between a representative of CLEPA, staff and members of the Cabinet of Commissioner Vălean between 11 March 2021 and 18 March 2021, concerning the meeting held on 23 March 2021;

Annex 7: E-mail exchange between a representative of Fuels Europe and members of the Cabinet of Commissioner Vălean, with the subject “*Invitation as Keynote Speaker to FuelsEurope online event “The potential of a liquid fuels strategy for the decarbonisation of transport”*”, dated between the 20 and 28 April 2021, containing the following attachment:

- **Annex 7.1:** Agenda of the Fuels Europe online event on the potential of a liquid fuels strategy for the decarbonisation of transport, to be held in May 2021;

Annex 8: E-mail from a member of Fuels Europe to members of the Cabinet of Commissioner Vălean, with the subject “*Meeting Request*”, dated 21 June 2021;

Annex 9: E-mail exchange between a representative of Fuels Europe and members of the Cabinet of Commissioner Vălean, with the subject “*Political Summit - Pau - 6 May 2022*”, dated between 20 February and 2 March 2022, containing the following attachment:

- **Annex 9.1:** Agenda of the High Level Summit on the Transition of Mobility, to be held on 5 and 6 May 2022.

Annex 10: E-mail exchange between representatives of ExxonMobil, FuelsEurope and members of the Cabinet of Commissioner Vălean with the subject matter “*Thank you Call 23/03/2022 Exxon Fuels Europe 18 03 2022*”, between 17 and 18 March 2022.

Concerning the documents listed above, we have come to the conclusion that they may be partially disclosed. 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 the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- other information relating to identified or identifiable natural persons, in particular references to their functions, to the extent that these would enable their identification.

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 (EU) 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/EC ⁽²⁾ (hereinafter ‘Regulation (EU) 2018/1725’, or ‘Data Protection Regulation’).

In particular, Article 3(1) of Regulation (EU) 2018/1725 provides that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The

⁽²⁾ Regulation (EU) 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/EC (OJ L 205 of 21.11.2018, p. 39).

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 ⁽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 applicable ⁽⁵⁾.

Pursuant to Article 9(1)(b) of Regulation (EU) 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 handling, in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of the Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

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. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject’s legitimate interests might be prejudiced.

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 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 (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has

⁽³⁾ 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*, ECLI:EU:C:2017:994, paragraphs 33-35.

⁽⁴⁾ Judgment of 29 June 2010 in Case C-28/08 P, *Commission v Bavarian Lager*, ECLI:EU:C:2010:378, paragraph 63.

⁽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 (EU) 2018/1725.

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.

Please note that the documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by mail:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Axel VOLKERY
acting Head of Unit

Enclosure: 15 annexes