



EUROPEAN COMMISSION

Brussels, 15.6.2021
C(2021) 4469 final

Ms Lala Hakuma Dadci
Rue d'Edimbourg 26
1050 Brussels
Belgium

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) NO 1049/2001¹**

**Subject: Your confirmatory application for access to documents – GESTDEM
2021/2128**

Dear Ms Dadci,

I am writing in reference to your email of 6 May 2021, registered on the same day, by which you lodge a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter ‘Regulation (EC) No 1049/2001’).

Through your initial application of 7 April 2021, you requested access to, I quote, ‘minutes of the following meetings:

- 04 May 2020 - Meeting between Commissioner Thierry Breton and Hydrogen Europe - Impacts of the COVID-19 Pandemic on the Renewable Energy Sector;
- 05 Jun 2020 - Meeting between Commissioner Thierry Breton and Business Europe - Speech on actions to strengthen key industrial value chains and ecosystems in the EU recovery plan;
- 12 Oct 2020 - Meeting between Director-General Kerstin Jorna and Hydrogen Europe- European Clean Hydrogen Alliance;

¹ OJ L 345, 29.12.2001, p. 94.

² OJ L145, 31.05.2001, p. 43.

- 13 Jul 2020 - Meeting between Director-General Kerstin Jorna and Hydrogen Europe - Follow-up and debrief after kick-off of European Clean Hydrogen Alliance and reported very positive feedback from industry CEOs as well request Commissioners involvement’.

In its initial reply of 30 April 2021, the European Commission’s Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs identified, as falling with the scope of your request, two documents corresponding to the meetings of 13 July and 12 October 2020, namely:

- E-mail with the subject ‘Ares(2020)3770101 - Call with Hydrogen Europe’, dated 16 July 2020, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, reference Ares(2021)2895762; and
- e-mail with the subject ‘Meeting with Hydrogen Europe, 13 October 2020’, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, reference Ares(2021)2895762.

The European Commission’s Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs partially disclosed these documents with personal data redacted in accordance with Article 4(1)(b) (protection of privacy and the integrity of the individual) of Regulation (EC) No 1049/2001.

As regards the remaining documents, the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs informed you that the European Commission does not hold any documents that would correspond to the description given in your application.

In your confirmatory application, you question the absence of any documents corresponding to the following meetings, I quote:

- ‘04 May 2020 - Meeting between Commissioner Thierry Breton and Hydrogen Europe - Impacts of the COVID-19 Pandemic on the Renewable Energy Sector;
- 05 Jun 2020 - Meeting between Commissioner Thierry Breton and Business Europe - Speech on actions to strengthen key industrial value chains and ecosystems in the EU recovery plan’.

You state that, I quote, ‘[a]fter an extension by the Commission of their deadline to respond by 15 working days, DG GROW access to document’s team declared that they “did not find any documents corresponding to the scope of your request”, although the referred meetings appear in Commissioner Breton agenda on the Commission's website’.

Against this background, the European Commission has carried out a renewed search for the documents requested. Following this renewed search, I confirm that the European Commission does not hold any documents that would fall within the scope of your request in addition to the documents that were already identified and partially disclosed at the initial stage.

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.

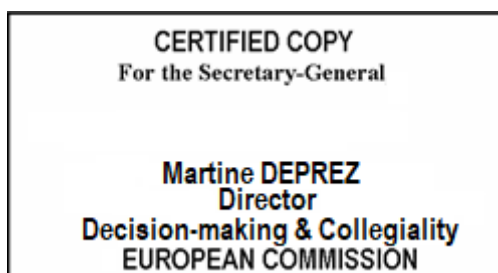
The General Court held in Case T-468/16 (*Verein Deutsche Sprache v Commission*) that there exists a presumption of lawfulness attached to the declaration by the institution asserting that documents do not exist³. This presumption continues to apply, unless the applicant can rebut it by relevant and consistent evidence⁴. The Court of Justice, ruling on an appeal in Case C-440/18 P, has confirmed these conclusions⁵.

In your confirmatory application, you do not provide evidence that the institution is in possession of documents corresponding to the description provided in your confirmatory request.

Given that the European Commission does not hold any additional documents falling within the scope of your application, it is not in a position to fulfil your request.

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,



For the Commission
Ilze JUHANSONE
Secretary-General

³ Judgment of the General Court of 23 April 2018, *Verein Deutsche Sprache v Commission*, T-468/16, EU:T:2018:207, paragraphs 35-36.

⁴ *Ibid.*

⁵ Order of the Court of Justice of 30 January 2019, *Verein Deutsche Sprache v Commission*, C-440/18 P, EU:T:2018:207, paragraph 14.