



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

The Director-General

Brussels,
RB/ra ener.c.1(2016)383098

Access Info Europe
Calle Cava de San Miguel 8, 4c
28005 Madrid
Spain

By email:
ask+request-2475-849febec@asktheeu.org

Subject: Your request for access to documents (GESTDEM/2015/6688)

Dear Madam, dear Sir,

I refer to your e-mail of 17 December 2015 requesting access to documents under Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents and under Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies. Your request has been registered under the above mentioned reference number.

I apologise for the delay in handling your application.

In your application you requested all the documentation related to the ENER/C1/428-2012 Technical assistance in preparation of the 2014 report on progress in renewable energy, sustainability of biofuels and renewable energy modelling¹ performed for the Commission by Ecofys, and *Fraunhofer-Gesellschaft zur Förderung der angewandten Forschung e.V.* This includes:

- The draft, interim, and final reports of the studies performed under the Lot 2² and Lot 3³ Service contracts;

¹ <http://ted.europa.eu/udl?uri=TED:NOTICE:220901-2013:TEXT:EN:HTML&src=0>

² http://ec.europa.eu/dgs/energy/tenders/doc/2012/ener_c1_contract_service_lot2.pdf

³ http://ec.europa.eu/dgs/energy/tenders/doc/2012/ener_c1_contract_service_lot3.pdf

- The correspondence from and to the Commission (especially with different stakeholders), internal correspondence within the Commission, minutes of working meetings, etc.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 and the Regulation (EC) No 1367/2006, I have come to the following conclusions:

1. The following documents are publicly available:
 - 1) The reports of the studies performed under ENER/C1/428-2012 Lot 2 and Lot 3, are published on the Commission's website⁴;
 - 2) The following documents regarding the study under the Lot 2 are published on the website www.globium-iluc.eu:
 - Meeting minutes of the Advisory Committee of 23 and 24 January 2013;
 - Meeting minutes of the consultations with the stakeholders in the time period from 12 November 2013, 13 November 2013, 14 November 2013, 22 November 2013, 19 February 2014, 20 February 2014 etc.

Please note that these studies were carried out by external experts and do not reflect the position of the Commission. They cannot be quoted as reflecting the Commission's position.

2. The following documents related to Lot 3 have been submitted to you on 21 January 2016:
 - 1) Interim report of the study carried out under Lot 3 - November 2013 version,
 - 2) Interim report of the study carried out under Lot 3 – December 2013 version,
 - 3) Draft final report of the study carried out under Lot 3,
 - 4) Final report of the study carried out under Lot 3.
3. Furthermore, you can find enclosed a copy of the following documents requested:
 - 1) The letter of Mr Pekka Pesonen, Secretary General of Copa – Cogeca addressed to Mr Philip Lowe, European Commission, DG Energy of 19 December 2013 – 5 pages;
 - 2) The reply letter of Ms Paula Abreu Marques to the above mentioned letter sent on 10 January 2014 – 1 page;
 - 3) The joint letter of Mr Rob Vierhout, Secretary General of ePURE, Mr Raffaello Garofalo, Secretary general of EBB, Ms Nathalie Lecocq, Director General of FEDIOL, Mr Pekka Pesonen from Copa-Cogeca and Mr. Philippe Dusser, Secretary General of EOA addressed to Ms Paula Abreu Marques, Head of Unit (DG Energy) sent on 17 January 2014 – 1 page;

⁴ http://ec.europa.eu/energy/sites/ener/files/documents/EmployRES-II%20final%20report_0.pdf

- 4) The reply letter of Ms Paula Abreu Marques, Head of Unit Renewables and CCS policy in DG Energy to the letter of COPA-COGECA, FEDIOL, ePURE, EBB, EOA sent on 28 January 2015 – 1 page;
- 5) The joint letter of Mr Raffaello Garofalo, Secretary general of EBB, Mr. Philippe Dusser, Secretary General of EOA and Ms Nathalie Lecocq, Director General of FEDIOL addressed to Mr Dominique Ristori, Director-General of DG Energy of 2 July 2015 – 2 pages;
- 6) The reply letter of Mr Dominique Ristori, Director-General of DG Energy to the letter of EBB, FEDIOL and EOA sent on 12 October 2015 – 2 pages;
- 7) The joint letter of Mr Raffaello Garofalo, Secretary general of EBB, Mr. Philippe Dusser, Secretary General of EOA and Ms Nathalie Lecocq, Director General of FEDIOL addressed to Mr. Frans Timmermans, First Vice-President for Better Regulation, Interinstitutional Relations, the Rule of Law, and the Charter of Fundamental Rights of 10 July 2015 – 3 pages;
- 8) The reply letter of Mr Ben Smulders, Head of Cabinet of the Vice-President Frans Timmermans to the letter of EBB, FEDIOL and EOA sent on 16 September 2015 – 2 pages.

One sentence in each of the following letters has been blanked out as disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001. Disclosure of these sentences would seriously undermine the protection of the decision-making process of the Commission, as they relate to a matter where the decision has not been taken yet by the Commission:

- 1) Reply letter of Ms Paula Abreu Marques to the letter of COPA-COGECA, FEDIOL, ePURE, EBB, EOA (Point 4 above);
- 2) Reply letter of Mr Dominique Ristori, Director-General of DG Energy to the letter of EBB, FEDIOL and EOA (Point 6 above);
- 3) Reply letter of Mr Ben Smulders, Head of Cabinet of the Vice-President Frans Timmermans to the letter of EBB, FEDIOL and EOA sent on 16 September 2015 – 2 pages (Point 8 above).

4. To our best knowledge, we have identified the following draft documents to which you refer in your application:

- 1) "The land use change impact of biofuels consumed in the EU - Quantification of area and greenhouse gas impacts, reference Ares(2015)3463967 - 21/08/2015";
- 2) "The land use change impact of biofuels consumed in the EU - Quantification of area and greenhouse gas impacts, reference Ares(2015)3569668 - 31/08/2015".

After thorough analysis I regret to inform you that these two documents may not be disclosed to you, as disclosure is prevented by exceptions to the right of access laid down in Article 4 (3) of Regulation 1049/2001. Disclosure of these documents would undermine the protection of the decision-making process of the Commission, as it would reveal preliminary information, opinions, consultations, including within the Commission.

We have examined whether there could be an overriding public interest in disclosure at this point in time, however, we have not been able to identify such an interest. Also, we have found no possibility for partial disclosure as these two documents are entirely covered by the exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001.

Taking into account the above, I consider that a refusal of access to these documents requested by you is justified.

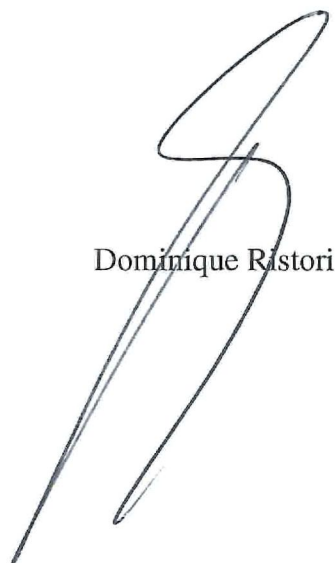
If you wish this position to be reviewed, you should write to the Commission's Secretary-General at the address below, confirming your initial request. You have fifteen working days in which to do so from receipt of this letter, after which your initial request will be deemed to have been withdrawn.

The Secretary-General will inform you of the result of this review within 15 working days from the registration of your request, either granting you access to the document or confirming the refusal. In the latter case, you will be informed of how you can take further action.

All correspondence should be sent to the following address:

The Secretary-General
European Commission
B-1049 BRUSSELS

Yours faithfully,



Dominique Ristori