EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION

The Director-General

Brussels
CLIMA.A.1

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

By email to: ask+request-11073-767a5209@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2022/2381

Dear Madam,

We refer to your e-mail of 22 April 2022 in which you make a request for access to documents, registered on 27 April 2022 under the above-mentioned reference number.

You requested access to the following documents:

i) *"All correspondence (including email, whatsapp and SMS) since 8th December 2021 between Commissioner Simson, Commissioner Timmermans, Commissioner Breton, President van der Leyen, and/or their cabinets and/or officials from DG Energy, DG Clima, DG Grow and/or Secretariat General on one hand and any stakeholder on the other, in which the "EU Neighbourhoods", as mentioned in the European Clean Hydrogen Strategy, were addressed.*

ii) *List of meetings since since 8th December 2021 between Commissioner Simson, Commissioner Timmermans, Commissioner Breton, President van der Leyen, and/or their cabinets and/or officials from DG Energy, DG Clima, DG Grow and/or Secretariat General on one hand and any stakeholder on the other, in which the "EU Neighbourhoods", as mentioned in the European Clean Hydrogen Strategy, were addressed*

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 separate

requests, whereby each part is attributed to the respective Commission service under a separate Gestdem reference number. Each service provides its own, separate reply, which relates only to the documents originating or received by that service. In this regard, this reply corresponds only to the documents held by the Directorate General for Climate Action.

We regret to inform you that the Commission does not hold any documents that would correspond to the description given in your application.

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.

Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

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 requested access to a list of meetings of the staff of the 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 2014[1]. However, the same obligation does not apply to lower-ranking officials, such as the remaining members of the Directorate-General for Climate Action.

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'[2].

In the present case, the Directorate-General for Climate Action does not hold any list of all meetings of its staff with the specific organisation concerned by your request in addition to the publicly available information on meetings of the Director-General, which is accessible via the abovementioned link. 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.

[1] OJ L 343, 28.11.2014, p. 19–21

[2] Judgment of the Court of Justice of 11 January 2017, *Typke* v *European Commission*, C-491/15 P, EU:C:2017:5, paragraph 31.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled 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 letter to the Secretariat-General of the Commission at the following address:

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

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

Yours faithfully,

(Electronically signed)

Mauro PETRICCIONE
p.o. Clara DE LA TORRE

Electronically signed on 24/05/2022 19:35 (UTC+02) in accordance with Article 11 of Commission Decision (EU) 2021/2121