



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Directorate TF – Energy Platform Task Force (EPTF)
TF.3 – International Relations

Brussels
ENER.TF.3/CL/MC

Mr Luis Miguel Hurtado
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By email: ask+request-15058-XXXXXXXX@XXXXXXXX.XXX

Subject: Proposal for fair solution

Dear Mr Hurtado Coronado,

We are writing to you concerning your request for access to Commission documents registered on 08/10/2024 under case number 2024/5318.

Your request concerns in particular:

"All the written and verbal correspondence, documents, drafts, informal and notes produced and/or exchanged between any of the DG Ener's officials and any of the members of the EU Delegation in Baku between February 1st, 2022 and October 8th 2024. It is of particular interest any document (correspondence, notes or draft) concerning the signature in July 2022 of a Memorandum of Understanding between Azerbaijan and the EU."

Your application concerns a very large number of documents, which need to be assessed individually. Such a detailed analysis cannot be carried out within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

The handling of your request involves the assessment of very voluminous documents originating from third parties. The analysis of these documents, together with the need to consult the third parties concerned in accordance with Article 4(4), cannot be expected to be completed within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

However, Article 6(3) of Regulation (EC) No 1049/2001 also provides for a possibility to confer with an applicant informally with a view to finding a fair

solution when an application relates to a very long document or concerns a very large number of documents.

In accordance with the case law of the EU Courts, such a solution can only concern the content, or the number of documents requested, not the deadline for replying¹. This means that the scope of the request must be reduced in a way that would enable its processing within the extended deadline of 15 + 15 working days.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your application and your specific interest in the documents requested², and whether you could narrow down the scope of your application (i.e. the subject matter(s) and/or timeframe covered), so as to reduce it to a more manageable number of documents.

According to our first estimates, the handling of your request would take more than 30 working days counting from the date of its registration taking into account the following steps:

- identification of the documents falling under your request;
- retrieval and establishment of a complete list of the documents identified;
- scanning of the documents;
- assessment of the content of the documents in light of the exceptions of Article 4 of Regulation (EC) No 1049/2001;
- third-party / Member State consultations under Article 4(4);
- final assessment of the documents in light of the comments received;
- drafting of the reply;
- redaction of those parts of the documents to which one or several exceptions apply;
- internal review and approval of the draft decision; and
- preparation of the reply and the documents for dispatch (scanning of the redacted versions, administrative processing etc.);

In this sense, we invite you to reconsider the request made and narrow its scope in the light of the above explanations. According to our first estimates, a maximum of **20** documents could possibly be dealt within the extended deadline of 30 working days counting from the date of registration of your request.

In order to enable us to respect the time-limits of Regulation (EC) No 1049/2001, please reply to this proposal for a fair solution **within five working days at the latest**.

¹ Judgment of the Court of Justice of 2 October 2014, *Strack v European Commission*, C-127/13, (hereinafter referred to as the '*Strack v Commission*' judgment), EU:C:2014:2250, paragraphs 26-28.

² *Strack v Commission* judgment, paragraph 28; Judgment of the General Court (then 'Court of First Instance') of 22 May 2012, *EnBW Energie Baden-Württemberg v European Commission*, T-344/08, EU:T:2012:242, paragraph 105.

In the absence of a reply within five working days, we will restrict the scope of your application to those parts that can be dealt with within the extended deadline of 30 working days.

Kind regards,

ENER ACCESS TO DOCUMENTS