

**EUROPEAN COMMISSION**  
**DIRECTORATE-GENERAL**  
**ENVIRONMENT**  
Directorate E - Implementation & Support to Member States  
ENV.E4 - Compliance & Better Regulation  
Head of Unit

Brussels,  
DG ENV E.4

Mr Kieran Fitzpatrick  
[ask+request-5098-06b49a3b@asktheeu.org](mailto:ask+request-5098-06b49a3b@asktheeu.org)  
Anbally,  
H54 AX90 Galway  
Ireland

**Subject: Your application for access to documents – GestDem No 2018/629**

Dear Mr Fitzpatrick,

I refer to your mail of 30 January 18 in which you make a request for access to documents, registered on the same day under the above mentioned reference number.

Your application concerns:

*'documentation which helps to identify those member states of the EU which have not been supportive of the EU's (former) efforts to bring into effect the access to justice (ATJ) Directive related to the Aarhus Convention, namely COM 2003/0624 (Proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters /\* COM/2003/0624 final - COD 2003/0246 \*, i.e. "the Directive".).*

*To this end:*

- 1. Please supply any documentation which indicates any member state's reluctance (or any reluctance as expressed by any official of a member state) to implement the specified proposed EU Directive.*
- 2. If there is documentation available as requested in question 1, but which fails to identify all member states which have failed to support the Directive, then I would seek the following documentation: Please supply any documentation which outlines support for the Directive by any or all members states (or by officials thereof).*
- 3. If and when the above documentation (questions 1/2) is made available, it fails to clarify the attitude of each member state to the proposed Directive, or no such documentation is obtainable, then, I seek the following documentation: Please supply any and all documentation between the Commission (including any commissioner and/or any EU official) to any member state (or any ministry or emanation or official of a member state), which sought to gain information on the attitude of any member state towards implementation of the Directive.*

*Where there are multiple documents which outline the attitude of a particular member state to the Directive, then I seek only the most recent documentation which clarifies such an attitude'.*

I would like to point out that this proposal was examined in the Council in the period up to 2005 and, due to poor support from Member States in the Council, no meetings were held thereafter.

The Commission actively considered the matter in 2012 and in 2013, before withdrawing the proposal on 21 May 2014. In 2017, the Commission adopted a Notice on access to justice in environmental matters. This reflected the reality that, despite lack of Member State support for a binding instrument on access to justice, important access-to-justice case-law has emerged from the Court of Justice.

I enclose the links of the DG ENV website where you can find the requested information concerning:

- a short summary from the Register of Commission Expert Groups<sup>1</sup> and of DG ENV website of the meetings with Member States

<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=390&NewSearch=1&NewSearch=1>

[http://ec.europa.eu/environment/aarhus/experts\\_groups.htm](http://ec.europa.eu/environment/aarhus/experts_groups.htm)

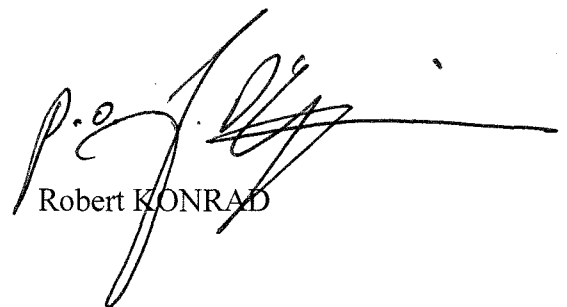
- public consultation on possible options for access to justice, consultation held between 28 July 2013 and 23 September 2013, where inter alia you can find the reactions from some Member States which provided an answer:

<http://ec.europa.eu/environment/aarhus/consultations.htm>

In addition, a meeting was held on the relevant Working Group in the Council on 13 May 2013, for which the Commission drafted the attached non-paper. You may reuse this document free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

Finally, I would like to mention that, against the background of a high turnover of officials in charge of this file, DG ENV does not possess the minutes of the meetings held in the Council about this proposal.

Yours sincerely,



Robert KONRAD

---

<sup>1</sup> Please take note of the fact that no further Council expert group meeting was convened after 2013 on this matter, in particular no meeting was held in March 2017. In addition, no meeting is expected in the near future.