

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT

The Director-General

Brussels, 06. 06. 2013
ENV.A.2/SG/ym/Ares(2013)

Jim Haughey
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21696e4@asktheeu.org

Dear Mr Haughey,

Subject: Your application for access to documents – Ref GestDem No 2334/2013

We refer to your e-mail of 26 April 2013 requesting access to documents, in particular you ask for access to minutes of a package meeting which took place on 24 January 2012 in London with regard to discussions concerning oyster beds in Strangford Lough and salmon netting in Northern Ireland. In addition you ask for access to any communications in the period 1 January 2012 to 1 July 2012 with DEFRA on these two subjects. Your request concerns the following files: EU pilot file 1079/10/ENVI and CHAP (2011) 02025 with regard to salmon netting in Northern Ireland and EU pilot 3183/12/ENVI with regard to Strangford Lough.

Having individually examined the complaint files concerned under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted. With regard to the discussions we had with the UK authorities at the meeting of 24 January 2012, these did not touch on oyster beds in Strangford Lough. Our key concern throughout this file has been the horse mussel beds and reefs on which these formerly thrived. As such the information you request access to does not exist.

With regard to your request for access to minutes of the meeting concerning salmon netting in Northern Ireland, this was discussed with the UK authorities at the package meeting of 24 January 2012. However, this request must be refused as disclosure is prevented by an exception to the right of access laid down in Article 4(2) of this Regulation.

The documents which you seek to obtain relate to ongoing investigations regarding a possible infringement of EU law. Disclosure of the documents requested would undermine the protection of the purpose of the ongoing investigation; indeed, disclosure of the document at this point in time would affect the climate of mutual trust between the authorities of the Member State and the Commission, which is required to enable them to resolve the case without having to refer it to the Court of Justice. Therefore the exception laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001 applies to these documents.

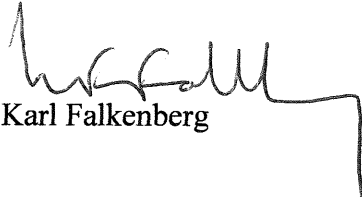
The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. I am not provided with any information which would allow me to make a judgment that your request proves the existence of an overriding public interest which overrides these considerations so that access at this stage should be given. I have also examined the possibility of granting partial access to the requested documents, in accordance with Article 4(6) of Regulation 1049/2001. However, partial access is not possible considering that the documents concerned are at the stage of investigation proceedings covered in their entirety by the exception under Article 4 (2), third indent.

In accordance with Article 7(2) of Regulation 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 Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-5
sg-acc-doc@ec.europa.eu

Yours sincerely,


Karl Falkenberg