



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
The Director-General

Brussels
ENV.E.3/

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Subject: Your application for access to documents EASE 2022/6834

Dear Mr Haugsted

We refer to your request for access to European Commission documents registered on 24 November 2022 under the above-mentioned reference number. On 14 December 2022 (Ref: ares (2022)8677520), my services notified you that an additional 15 working days would be needed to reply to your request.

You request access to a reasoned opinion in infringement file (2017)2113 as well as numerous infringement documents linked to file (2000)4384 which is linked to two judgments in cases C-215/06 and C-261/18, *Commission v. Ireland*.

Your application concerns the following 5 documents in relation to the judgment in case C-215/06:

- Commission's Letter of formal notice to Ireland of 5 April 2001 (Ref: SG(2001)D/287491)
- Commission's Additional letter of formal notice to Ireland of 9 July 2004 (Ref: SG(2004)D/202983)
- Commission's Reasoned Opinion to Ireland of 21 December 2001 (Ref: SG(2001)260569)
- Commission's Reasoned Opinion to Ireland of 22 December 2004 (Ref:SG(2004)D/200093)
- Ireland's letter of reply to the Commission of 8 March 2005 (Ref: SG(2005)A/2601)

Your application concerns the following 4 documents in relation to the judgment in case C-261/18 under Article 260 of the Treaty on the Functioning of the EU:

- Commission's Letter of formal notice to Ireland of 26 June 2009 (Ref: SG(2009)D/3677)
- Commission's Additional Letter of formal notice to Ireland of 22 March 2010 (Ref: SG(2010)D/3759)
- Commission's letter to Ireland of 19 September 2012 (Ref: ares(2012)1087026).
- Ireland's reply to Commission letter of 13 October 2012 (Ref: ares(2012) 1212250).

With regard to these nine documents listed above, a complete disclosure of the identified documents is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of natural persons;

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

Please note that two of the documents originate from the Irish authorities which is a third party. These are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit a confirmatory application requesting the Commission to review this position. The details of this process are provided at the end of this letter.

Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents in relation to the first part of your request, I regret to inform you that your application cannot be granted, as disclosure is prevented by an exception to the right of access laid down in Article 4 of this Regulation.

The document which you seek to obtain access to is the Commission reasoned opinion in file (2017)2113 which relates to an ongoing investigation regarding a possible infringement of EU law. Disclosure of the document requested would undermine the protection of this 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 this document.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. I have examined whether there could be an overriding public interest in disclosure, but have not been able to identify such an interest.

In accordance with Article 4(6) of Regulation (EC) No 1049/2001, I have considered the possibility of granting partial access to the documents requested. However, for the reasons explained above, no meaningful partial access is possible without undermining the interest described above.

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 to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal¹ account (available only for initial requests submitted via the portal account),

or by mail:

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

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

Yours faithfully,

e-signed

Florika FINK-HOOIJER

¹ <https://www.ec.europa.eu/transparency/documents-request>