



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Directorate D - Natural Capital
ENV.D3 Nature Protection

Brussels,
ENV.D3/MOB/RD/sp

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Subject: Your application for access to documents – Ref GestDem No 2019/5981

Dear Sir,

We refer to your request for access to documents dated 18/10/2019, registered on 22/10/2019 under the above-mentioned reference number.

Your request concerns *‘documents which contain the following information : all communications between the Netherlands and the European Commission on the protection of Natura-2000-areas between 2009 and 2019.’* Your request on nitrogen, GestDem No 2019/5979, is being dealt with by another service.

The handling of your request involves the assessment of a very large number of documents originating partially from the Netherlands. The analysis of these documents, together with the need to consult this Member State in accordance with Article 4(4) and 4(5) of Regulation (EC) No 1049/2001, 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) provides that in the event of an application relating to very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

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

¹ Judgment of the Court of Justice of 2 October 2014 in case C-127/13, *Guido Strack v Commission*, paragraphs 26-28.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your request and your specific interest in the documents requested², and whether you could narrow down the scope of your request (i.e. the subject matter(s) and timeframe covered), so as to reduce it to a more manageable amount of documents. Please take note of the fact that a period between 2009 and 2019 implies such an extensive search and subsequent activities that it already now appears extremely difficult, even impossible, to carry out it in thirty working days. According to your answer, we will take a position on your request.

In order to enable us to respect the time-limits of Regulation (EC) No 1049/2001, we would ask you for a swift reply to our invitation to propose a fair solution, within eight working days to: nature@ec.europa.eu. Please be also aware that DG ENV could make use of the possibility, provided by the case law of the EU Courts, not to deal with your application with a view to safeguarding the interests of good administration.

Thank you in advance for your understanding.

Yours sincerely,

(e-signed)

Micheal O'Briain
Deputy Head of Unit

² Ibid, paragraph 28; Judgment of the General Court (then 'Court of First Instance') of 22 May 2012 in case T-344/08, *EnBW Energie Baden-Württemberg v Commission*, paragraph 105.