



EUROPEAN COMMISSION

DIRECTORATE-GENERAL

ENVIRONMENT

Directorate E – Compliance, Governance & Support to Member States

ENV.E.2 – Environmental Compliance – Implementation

Brussels

ENV.E.2/HB/bz/

Luisa Izuzquiza

FragDenStaat c/o Open Knowledge

Foundation Singerstr. 109

10179 Berlin, Germany

Email:

[REDACTED]

Subject: Your requests for access to documents — GestDem 2022/3411

Dear Madame,

We refer to your email of 13 June 2022 with the above-mentioned reference, registered on 14 June 2022, and our holding reply of 17 June 2022 by which we extended the deadline for reply to 25 July 2022. You are requesting access to documents in relation to the following infringement proceedings against Belgium, France, Germany and the Netherlands:

- INFR(1990)5220 Ireland (IE)
- INFR(1990)4113 The Netherlands (NL)
- INFR(1991)0206 France (FR)
- INFR(1994)2237 Germany (DE)
- INFR(1994)2238 Ireland (IE)
- INFR(1994)2239 Belgium (BE)

You requested:

- all Letters of Formal Notice;
- all Reasoned Opinions;
- any other written warnings issued by the European Commission;
- all responses from the relevant Member States to the communications listed above;
- all annexes to the documents listed above.

The copies of the requested documents which could be retrieved from the archives have been uploaded on the link provided for large files ([https://urldefense.com/v3/https://fragdenstaat.de/en/request/251295/upload/a03ce44fb1ebca4e01e0c7d01ae2c5722e18c775/;!!DOxrgLBm!A1NvKtB0Gqrtge10foHjjMQlj2xkLeIxSfuttPLkCzyZw-SDLewJXqjFUdnZ0Y7DNEUNuORHzsGnpolUxnsrC-owKXhrnpf9GIWrLqqrSBW9zLeT\\$](https://urldefense.com/v3/https://fragdenstaat.de/en/request/251295/upload/a03ce44fb1ebca4e01e0c7d01ae2c5722e18c775/;!!DOxrgLBm!A1NvKtB0Gqrtge10foHjjMQlj2xkLeIxSfuttPLkCzyZw-SDLewJXqjFUdnZ0Y7DNEUNuORHzsGnpolUxnsrC-owKXhrnpf9GIWrLqqrSBW9zLeT$)). These are listed below (per case):

INFR(1990)5220 IE

Article 258¹ phase

- Letter of formal notice of 14/02/1991 (Ref:SG(91)D/3384)
- Letter of formal notice of 23/12/1992 (Ref: SG(92) D/19207)
- IE letter of 30/07/1993 (Ref: none)
- Commission letter of 16/11/1995 (Ref: XI/022470)
- IE reply of 11/06/1996 (Ref: SG(96)A/09605)
- IE reply of 14/06/1996 (Ref: XI/A/11925)
- Supplementary letter of formal notice of 3/10/1996 (Ref: SG(96)D/2223)
- Reasoned Opinion of 12/06/1997 (Ref: C(97)1647 final)
- IE letter of 11/06/1997 (Ref: SG(97)A/9752)
- Commission letter of 3/03/1998 (Ref: XI/A/003798)
- IE letter of 18/05/1998 (Ref: XI/A/8262)
- IE letter of 24/08/1998 (Ref: 13005)
- IE letter of 28/05/1999 (Ref: (XI/A/8531)
- IE letter of 31/05/1999 (Ref: None)
- Commission letter of 26/08/1999 (Ref: XI/010789)
- IE letter of 12/11/1999 (Ref: ENV/A/17142)
- IE letter of 23/11/1999 (Ref: ENV/A/17529)

¹ The cases were started under previous versions of the Treaties. The documents themselves therefore refer to Article 169 EEC or Article 226 EC as being the phase leading up to the first referral to the Court of Justice and Article 228 as the phase following after a first ruling has been handed down and possibly leading up to a second referral. The overview of the documents uses the current provisions of the Treaty on the Functioning of the European Union to distinguish between the two phases of the infringement procedure.

- IE letter of 31/05/2000 (Ref: ENV/A/807549)
- Supplementary Reasoned Opinion of 28/07/2000 (Ref: SG(2000)D/103508)
- IE letter of 2/02/2001 (Ref: SG(2001)A/1628)
- IE letter of 6/04/2001 (Ref: SG(2001)A/4916)
- IE letter of 30/07/2001 (Ref: ENV/A/807774)
- IE letter of 15/02/2002 (Ref: ENV (2002) A/801859)

Article 260 phase

- Letter of formal notice of 10.04.2006 (Ref: SG(2006)D/210687)
- IE letter of 09.06.2006 (Ref: SG/CdC/2006/A/4526 plus Annexes)
- IE letter of 16.06.2006 (Ref: ENV A/11107)
- IE letter of 19.12.2006 (Ref: SG/CdC(2006)A/326)
- IE letter of 09.01.2007 (Ref:SG/CdC(2007)A/349)
- Reasoned Opinion of 23.03.2007 (Ref: SG-Greffe(2007)D/201419)
- IE letter of 25.05.2007 (Ref: ENV A/8790)
- IE letter of 23.08.2007 (Ref: none)
- IE Letter of 23.10.2007 (Ref: SG/CdC(2007)A/8051)
- IE letter of 19.12.2007 (Ref: none)
- IE letter of 17.09.2008 (Ref: SG/CdC(2008)A/7264 plus 3 Annexes)
- IE letter of 08.05.2009 (Ref: none)
- IE letter of 02.09.2009 (Ref: SG/CdC(2009)A/8428)

INFR(1990)4113 NL

Article 258 phase

- Letter of formal notice of 15/02/1994 (SG(1994)D/2111)
- Reply of 08/08/1994 (SG(1994)A/17334)
- Reasoned Opinion of 23/12/1996 (SG(1996)D/11611) – please note that the Netherlands do not seem to have replied to the reasoned opinion

Article 260 phase

- Letter of 28/05/2002 (SG(2002)A/544)
- Letter of formal notice of 27/06/2002 (SG(2002)D/220193)
- Reply of 18/09/2002 (SG(2002)A/09121)
- Reasoned Opinion of 19/12/2002 (SG(2002)D/221050)
- Reply of 14/02/2003 (SG(2003)A/01726)
- Additional reasoned Opinion of 19/12/2003 (SG(2003)D/ 233635)
- Replies of 19.02.04

INFR(1991)0206 FR

Article 258 phase

- Letter of formal notice of 26/02/1991 (SG(1991)D/4118)
- Reply FR of 25/10/1991 (SG(1991)A/16392)
- Reply FR of 22/04/1993 (SG(1993)A/ - DG XI-29/04/93-010273-A)

- Reasoned Opinion of 18/05/1993 (SG(1993)D/8200)
- Reply FR of 30/07/1993 (SG(1993)A/16525)
- Reply FR of 16/03/1994 (DGXI-21/03/1994-007208-A)
- Reply FR of 20/06/1996 (SG(1996)A/)
- Reply FR of 26/11/1996 (DGXI-02/12/96-22096-A)
- Additional Reasoned Opinion of 24/02/2000 (SG(2000)D/101782)

Article 260 phase

- Letter "pré-228" to FR of 22/07/03 (DG ENV D(03) 523577)
- Reply FR to letter "pré-228" of 3/11/03 (DGXI-04/11/03-809916-A)
- Letter of formal notice Art 260 of 09/07/2004 (SG(2004)D/202845)
- Reply FR to letter of formal notice Art 260 of 29/11/2004 (SG(2004)A/12542)
- Reasoned Opinion Art 260 of 22/12/2004 (SG(2004)D/206213)
- Reply FR to Reasoned Opinion Art 260 of 28/04/2005 (SG2005A/4049)
- Reply FR to Reasoned Opinion Art 260 of 26/05/2005 (SG2005A/4912)
- Reply FR to Reasoned Opinion Art 260 of 01/08/2005 (SG(2005)A/07126)

INFR(1994)2237 DE

Article 258 phase

- Letter of formal notice of 15 May 1995 (SG(95)D 6098)
- Reply by [REDACTED] letter of formal notice of 25/7/1995 (SG(95)A 12640)
- Reply by [REDACTED] letter of formal notice of 28/3/1996 (SG(96)A 05733)
- Letter Commission to G [REDACTED] 12/2/1997
- Letter Commission to G [REDACTED] 11/7/1997 (SG(97)D 54830)
- Letter [REDACTED] Commission of 30/9/1997 (SG(97)A 15991)
- Reasoned Opinion (SG(98)D 8083)
- Reply by [REDACTED] the Reasoned Opinion of 2/12/1998 (SG(98)A 18393)
- Letter [REDACTED] Commission of 19/4/1999 (SG(99)A 5691)
- Letter [REDACTED] Commission of 12/5/1999 (SG(99)A 6939)
- Letter [REDACTED] Commission of 6/8/1999 (SG(99)A 10791)
- Letter [REDACTED] Commission of 24/8/1999 (SG(99) A/11337) .
- Letter Commission to [REDACTED] follow up Nitrates meeting of 3/12/1997

Article 260 phase

- Letter Commission to [REDACTED] following judgment of 3/4/2002
- Communication C [REDACTED] Commission of 5/7/2002 (SG(2002)A 6978)
- Communication C [REDACTED] Commission of 2/9/2002 (SG(2002)A 8833)
- Letter of formal notice Article 228 of 17/12/2002 (SG(D)220996)
- Communication C [REDACTED] Commission of 20/02/2003 (SG(2003) A/2013)

INFR(1994)2238 IE

Article 258 phase

- Letter of formal notice of 29/05/1995 (Ref: SG(95)D/6707)
- IE letter of 17/07/1995 (Ref: SG(95)A/number not visible)
- IE letter of 15/08/1996 (Ref: none)
- Letter of formal notice of 21/10/1996 (Ref: SG(96)D/9192)
- IE letter of 14/02/1997 (Ref: XI A/9320)
- Commission letter of 30/10/1998 (Ref: XI 025538)
- IE letter of 9 June 1999 (Ref: none)
- Letter of formal notice of 14/07/1999 (Ref: SG(99)D/5217)
- IE Letter of 25/11/1999 (Ref: SG(99)A/15328)
- Commission study by ERM March 2000 (No reference)
- Letter of formal notice of 25/07/2000 (Ref: SG(2000)D/105321)
- IE holding reply of 26/09/2000 (Ref: SG(2000)A/12059)
- Commission reply extension on 16/10/2000 (Ref: SG(2000)D/202831)
- IE 2nd holding reply of 5/12/2000 (Ref: ENV/A/813832)
- Reasoned Opinion of 9/02/2001 (Ref C(2000)4386 final)
- IE letter of 01/03/2001 (Ref: ENV/A/802384), plus Annex Report 1996-1999
- IE letter of 06/04/2001 (Ref: SG(2001)A/4401) plus Annex EPA report
- IE Letter of 30/07/2001 (Ref: ENV/A/807774) plus 5 Annexed reports

Article 260 phase

- Letter of formal notice of 22.12.2004 (Ref: SG-Greffe(2004)D/206145)
- IE holding letter of 10.03.2005 (Ref: none)
- IE letter of 29.07.2005 (Ref:SG(2005)A/7123)
- IE Letter of 26.01.2006 (Ref:ENV/A/1804)
- IE Letter of 28.08.2006 (Ref: SG/CdC(2006)A/6486)
- IE Letter of 18.10.2006 (Ref: ENV(2006)A/21517)
- Reasoned Opinion of 23.03.2007 (Ref: SG-Greffe(2007)D/201417)
- IE Letter of 11.06.2007 (Ref: ENV(2007)A/9887)
- IE Letter of 24.08.2007 (Ref: ENV(2007)A/14114)

INFR(1994)2239 BE

Letter of formal notice 258

- 1st Letter of formal notice of 18/5/1995 (SG/D(95) 6315)
- Reply BE of 13/6/1995 (SG (95) A/10319)
- Reply BE of 2/9/1996 (SG(96)A/14310)
- Reply BE of 5/9/1996 (SG(96)A/12382)
- 2nd Letter of formal notice of 28/10/1997 (SG/D(97) 8833)
- Rely BE of 24/12/1997 (P11-550-64.662)
- Reply BE of 22/1/1998 (SG(98)A/01301)
- Reply BE of 12/10/1999 (SG(98)A/15186)

Reasoned Opinion 258 phase

- Reasoned Opinion of 23/11/1998 (SG(98) D/10960
- Reply BE to Reasoned Opinion 258 of 7/9/1998 (SG(98)A/13837
- Reply BE to Reasoned Opinion 258 of 3/8/1998 (SG(98)A/12006
- Reply BE to Reasoned Opinion 258 of 7/12/1998 (SG(98)A/18044
- Reply BE of 16/6/1999 (DG XI 17/6/99 – 9446 A)
- Reply BE to Reasoned Opinion 258 of 19/2/1999 (SG (99)A/2768

Art 260 phase

- Letter of formal notice Art 260 of 29/6/2007 (SG-Greffe(2007)D/203867
- Reply BE 4/9/2007 (SG/CdC(2007)A/14493
- Reply BE of 11/12/2007 (Ref: AGRI/ad/0681.03/7020)
- Reply BE 19/12/2007 (SG/CdC(2007)A/367

With regard to the documents, including the replies by the Member States 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 within the national administrations;

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.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the Commission Decision on the reuse of Commission documents. You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the document/documents. Please note that the Commission does not assume liability stemming from the reuse.

Documents originating from third parties, here: the replies to the letters of formal notice and reasoned opinions, are made public in accordance with Regulation (EC) No 1049/2001.

Disclosure is without prejudice to intellectual property rules, which may restrict your right to reproduce or use the released documents without the consent of the originator, who may have an intellectual property right. The European Commission does not assume any responsibility from their reuse.

In case you would disagree with this position on not granting access to the personal data, 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.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Brussels, or by email to: sg-acc-doc@ec.europa.eu.

Yours faithfully,

Electronically signed

Ion Codescu
Head of Unit