



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
The Director-General

Brussels
ENV.E.3/

Mr Ashley Glover
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Subject: Your request for access to documents 2025/4678

Dear Mr Glover,

I refer to your request for access to documents of the European Commission registered on 17/9/2025 under the above-mentioned reference number.

Your request concerns correspondence between Ireland and the European Commission on the issue of compliance with the Habitats Directive in view of granting farmers a nitrates derogation in the meaning of Directive 91/676/EEC ⁽¹⁾. In this context you refer to the ruling of the Court of Justice of the EU in case C-444/21 on failing to designate sufficient Special Areas of Conservation (SACs) and implement site-specific conservation measures for its Natura 2000 sites. You also refer to the fact that Ireland has not acted to stop peat extraction in Special Areas of Conservation. You restrict your request to the year 2025.

We have identified the following documents related to your request:

1. Letter to Ireland on the implementation of the Nitrates Directive (Ares(2025)603874);
2. Presentation for meeting with Commission services 10.3.2025 (Ares(2025)1899775);
3. Reply from the Irish authorities - letter on the Implementation of the Nitrates Directive in Ireland (Ares(2025)4396149);
4. Responses to Commission Information Request (Ares(2025)4463541);
5. Letter to Ireland authorities - Assessment of Ireland's derogation request (Ares(2025)4621322);

⁽¹⁾ Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, OJ L 375, 31.12.1991, p. 1.

6. For the attention of Mr Delgado Rosa - Ireland's Nitrates Derogation Request (Ares(2025)6282921).

The Commission does not hold any documents related to the implementation of the Habitats Directive in view of granting a derogation for nitrates in Ireland in the context of Court case C-444/21 or related to the peat extraction in Natura 2000 sites. As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution.

Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request in that regard.

We are pleased to give you access to document No 1 listed above.

With regard to documents No 2 and 3 listed above, due to the exception relating to the protection of privacy and the integrity of the individual laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001, the above-mentioned documents may not be disclosed in full, because they contain in part the names or initials or signatures and contact details of Commission staff not belonging to senior management or the names or initials or signatures and contact details of other natural persons.

According to Article 9(1)(b) of the Data Protection Regulation, such personal data may not be transferred unless you demonstrate that the transfer of the data is necessary for a specific purpose in the public interest and there is no reason to believe that the legitimate interests of the data subject might be prejudiced. However, in your request, you did not express a specific interest in accessing these personal data.

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 document, 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.

Having examined the documents Nr 4 to 6 listed above, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(3), first subparagraph of this Regulation.

The documents which you seek to obtain relates to a decision which has not yet been taken by the Commission. Disclosure of the document requested would undermine the protection of the decision-making process of the Commission in relation to Ireland's request for a new derogation under the Nitrates Directive 91/676/EEC, as it would reveal preliminary views and policy options which are currently under consideration. The relevant decision-making process to be protected is the assessment of the request of Ireland for a derogation under Article 9 and Annex II.2 (b) of the Nitrates Directive in December 2024 in the Nitrates Committee. This assessment might result in a proposal for a Commission Implementing Decision and the subsequent vote by Member States in the Nitrates Committee. Giving access before the decision-making process is finalised, thus excluding the documents concerned from the coverage of the exception in point in the course of the decision-making process would deprive the protection granted by the first subparagraph of Article 4(3) of the Regulation of its intended effect.

Furthermore, technical information is still being submitted by the Member State concerned by the derogation request and under technical assessment by the Commission. In such a process, the Commission, the Member State concerned, and the other Member States represented in the Committee should be free to express their opinions, also of a critical nature, independently and without being unduly influenced by the consequences of a disclosure of an internal Commission document at a premature stage that would affect the decision-making process.

If such preliminary opinions of the Commission are disclosed before the end of the process, this would make it more difficult for the Commission to express its opinions possibly limiting a critical review of all aspects and policy options. Indeed, as the General Court has held, *'the possibility of expressing views independently within an institution helps to encourage internal discussions with a view to improving the functioning of that institution and contributing to the smooth running of the decision-making process'* ⁽²⁾.

We have considered whether partial access could be granted to the document in accordance with Article 4(6) of the Regulation No 1049/2001. However, partial access is not possible considering that the document concerned is covered in its entirety by the exception under Article 4(3), first subparagraph, of Regulation No 1049/2001 or the remaining parts after expunging the confidential information might be meaningless or illegible.

The exceptions laid down in Article 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. We have examined to which extent the exception laid down in Article 4(3) of Regulation No 1049/2001 may be waived in case of an overriding public interest in disclosure. Having analysed your request, we have not found any elements which could justify the existence of an overriding public interest in the sense of the Regulation, which would outweigh the exception stipulated in Article 4(2) and Article 4(3) mentioned above. Therefore, we have concluded that access to the aforementioned documents cannot be granted.

Should you disagree with the above finding, you may, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, submit a confirmatory application requesting the Commission to reconsider your 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:

via a request for review via the Portal account ⁽³⁾ (only possible if the initial application was submitted via the Portal account);

by post:

European Commission
Secretariat-General
Transparency, document management and access to documents (SG.A.2)
BERL 7/076

⁽²⁾ Judgment of the General Court of 15 September 2016, Phillip Morris v Commission, T-18/15, EU:T:2016:487, paragraph 87. 30 Judgment of the Court of Justice of 21 July 2011, Sweden v MyTravel and Commission, C-506/08, EU:C:2011:496, paragraph 79.

⁽³⁾ <https://www.ec.europa.eu/transparency/documents-request>

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Yours sincerely,

Eric MAMER
Director-General