



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY

The Director-General

Brussels, **25 JUL 2018**  
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Stichting Laka  
Katelhuysplein 43  
NL-1054 RD Amsterdam  
The Netherlands

By registered letter with  
acknowledgment of receipt

Advance copy by email:

**Subject: Your application for access to documents under Regulation (EC)  
No 1049/2001 - Ref GestDem No 2018/3474**

Dear

We refer to your e-mail dated 21/06/2018, in which you make a request for access to documents, registered on 27/06/2018 under the above-mentioned reference number.

You request access to letters of formal notice dated 17 May 2018 to Austria, the Czech Republic, Hungary, Italy, the Netherlands, Poland, Portugal, Romania and the United Kingdom for failing to correctly transpose certain requirements of the Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (Directive 2011/70/Euratom).

Your application concerns the following documents:

1) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to Austria, C(2018)2923 final, infringement No 2018/2038;

- 2) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to the Czech Republic, C(2018)2920 final, infringement No 2018/2035;
- 3) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to Hungary, C(2018)2922, infringement No 2018/2037;
- 4) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to Italy, C(2018)2908 final, infringement No 2018/2021;
- 5) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to the Netherlands C(2018)2909 final, infringement No 2018/2022;
- 6) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to Poland, C(2018)2921 final, infringement No 2018/2036;
- 7) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to Portugal, C(2018)2918, infringement No 2018/2033;
- 8) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to Romania, C(2018)2919, infringement No 2018/2034;
- 9) letter of formal notice concerning failure to correctly transpose certain requirements of Directive 2011/70/Euratom sent to the United Kingdom, C(2018)2924 final, infringement No 2018/2039.

The letters of formal notice have been sent to the Member States in their respective official languages.

Having examined the documents requested 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, as disclosure is prevented by the exception to the right of access laid down in Article 4 of this Regulation.

The documents which you seek to obtain relate to ongoing investigations regarding possible infringements of EU law (see infringement cases numbers listed above). Consequently, disclosure of the documents requested would undermine the protection of the purpose of the ongoing investigation. Indeed, disclosure of the documents at this stage 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 cases 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 those documents.

We have also considered whether partial access could be granted to the requested documents. However, partial access is not possible considering that the requested documents are covered in their entirety by the exception under Article 4(2) third indent of Regulation 1049/2001.

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. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

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 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-4  
BERL 5/327  
B-1049 Brussels

or by email to [ec.europa.eu](mailto:ec.europa.eu)

Yours

