

3 February 2015

On behalf of Justice and Environment, European Network of Environmental Law Organizations, I as the Chairman of the organization submit the below

### **CONFIRMATORY APPLICATION**

to the Secretary General of the European Commission against the refusal by the Commission of our request for access to documents dated 20 January 2015 and delivered on 20 January 2015. The reference number of the case is Ref. Ares (2015) 218553 – 08/01/2015 (Ref GestDem No. 2014/6025).

We kindly request the European Commission to review its position regarding the refusal of access to documents in the said case. Our arguments in favor of disclosure of the requested documents are the following:

1.

The documents were broadly reported in diverse media outlets, including Brussels and national (Czech) media as well as social media means. Nevertheless, the exact content of the Commission's infringement allegations are still unclear. These are, however, crucial in order to precisely inform the public about the work of the Commission that is done in favor of enforcing European environmental law and for the benefit of the EU citizens.

2.

While we understand that there is a chance during the investigation phase of an infringement procedure to amicably settle the argument between the Commission and the Member State, this is still not the principal aim of an infringement procedure. Rather it is to make sure that the Member States uniformly and properly apply EU law. For the Commission, to fulfill this task, it is crucial to receive all relevant information about the situation in the respective Member State. The public can often provide such information, and to do so in a focused and effective manner, it needs to know the exact content of the communication between the Commission and the Member State. For this reason, access to documents is rather promoting than hindering the attainment of the principal aim of a Pilot or infringement procedure.

3.

We see an overriding public interest in disclosure of the requested information as such cases that involve ensuring clean air for the citizens of the EU affect at least millions of people, often regardless of their nationality (especially in cases of transboundary pollution). In such circumstances the public interest is clearly in the disclosure rather than the refusal of access to information (documents), for various reasons, including the possibility of the public to participate efficiently in the procedures of adopting the air quality plans according to the 2008/50/EC Air Quality Directive (such plans are

currently in the process of drafting in the Czech Republic). Therefore we kindly request the Commission to grant access to the requested documents.

4.

Lastly, we request the Commission to consider again the option of a partial disclosure of the documents applied for, given that it is highly improbable that nothing out of the correspondence between the Commission and the said Member State could be disclosed on the grounds of overriding public interest in disclosure pursuant to Art. 4(2) of Regulation 1049/2001. We are positive that either the claims of the Commission and the allegations of infringement as well as the laws that the Commission referred to as breached could be released without any negative impact on the entire process of infringement.

Sincerely Yours,



**Siim Vahtrus, Chairman, J&E**