

27 September 2016

**Compliance Committee**  
**United Nations Economic Commission for**  
**Europe**  
**Environment and Human Settlement Division**  
[aarhus.compliance@unece.org](mailto:aarhus.compliance@unece.org)

Dear Madam/Sir,

**Our Ref.: DOUTRELOUX / S.A. SCIERIE CLOSE 00000012 AL/AG/2171**  
**Your Ref.: ACCC/C/2015/134**

In connection with the matter referenced in the heading above, please find enclosed a copy of the judgment of the Justice of the Peace of Malmedy-Spa-Stavelot, sitting at Stavelot, of 7 September 2016. This judgment represents the final decision on a request for access to information made by the communicant, Mr Doutreloux (Communication Reference above) on 26 August 2014 – i.e. more than 2 years ago...!

This two-year delay substantiates the communicants' argument that the current system for requesting access to information, in which direct enforcement of decisions of the Appeal Commission for the Right of Access to Environmental Information is clearly impossible, infringes the right of access to environmental information in that it imposes excessively long time periods.

A copy of this letter has been sent to the representative of the Belgian State in the matter of this Communication.

Yours sincerely,

[*signed*]  
Alain LEBRUN  
Lawyer.

Justice of the Peace  
of Malmedy-Spa-Stavelot, sitting at  
Stavelot

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under Article 792 of the Code of Civil Procedure

Clerk's Office

**Case reference 15A23**

Tel.: 080 86 21 93

Sender: Justice of the Peace of MALMEDY-SPA-STAVELOT,  
sitting at Stavelot, Cour de l'Abbaye, 4970 Stavelot

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Lawyer  
6, Place de la Liberté  
4030 Grivegnée (Liège)

IBAN

BIC

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Stavelot, 7 September 2016

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OUR REFERENCE:

YOUR REFERENCE:

ANNEX

15A23, 07-09-2016

DOUTRELOUX Francis 00000012/AL/LR/1938/SCIERIE CLOSE

**DOUTRELOUX Francis  
v. TOWN OF STAVELOT**

Stavelot, 7 September 2016

Dear Sir,

Please find attached a copy of the decision handed down on 7 September 2016.

Yours faithfully,

[signed]  
Valérie PLANCHARD  
Clerk of the Court

ADDRESS: Justice of the Peace of Malmedy-Spa-Stavelot, sitting at Stavelot, Cour de l'Abbaye, 4970 Stavelot

WEBSITE: [www.just.fgov.be](http://www.just.fgov.be)

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Registration No: **12098/2016**

Registration number <b>/</b>	Dispatch served on	p. 1
Judgment delivered on <b>7 September 2016</b>	€ FROM:	
Roll number <b>15A23</b>		

Justice of the Peace  
of Malmedy-Spa-Stavelot, sitting  
at Stavelot

## JUDGMENT

I, Victor DEMARTEAU, Justice of the Peace, assisted by Valérie PLANCHARD, Clerk of the Court, sitting in the courtroom of the Justices of the Peace of Malmedy-Spa-Stavelot at Stavelot on **Wednesday, the seventh day of September in the year two thousand and sixteen**, delivered the following judgment in open court:

### IN THE CASE OF:

**Mr Francis DOUTRELOUX**, farmer, residing at 5, route de Cheneux, 4970 Stavelot, with counsel Alain LEBRUN, lawyer at Liège

**Applicant;**

### VERSUS:

**TOWN OF STAVELOT**, represented by the local authority, whose office is at 32, place Saint-Remacle, 4970 Stavelot, with counsel Vincent TROXQUET, lawyer at Verviers

**Defendant;**

Having regard to the provisions of the Law of 15 June 1935 on the use of languages in the courts;

Having regard to the judgment of 18 February 2015 fixing an agreed timetable for case preparation;

Having regard to the order dated 10 March 2016, made under Article 747(2) of the Code of Civil Procedure, fixing the date of 6 April 2016 for pleadings in open court

Having heard the arguments and pleas put forward by the parties at the hearing on 6 April 2016;

Counsel for the defendant sent a planning permit (No PU/10344 of 12 September 2012) and an environmental permit (granted on 3 December 2003) to counsel for the applicant by official letter of 19 August 2015.

At a hearing in open court on 16 September 2015, the defendant undertook to produce the plans that should have been attached to the decisions in question: the decision to grant a planning permit - No PU/10344 (Decision in Favour), the environmental permit granted under the Decree of 11 March 1999 and any permit for a caravan site or for caravanning.

Counsel for the defendant submitted these documents in open court on 7 October 2015, but had not previously produced them to counsel for the applicant.

At the hearing for presentation of oral arguments set for 6 April 2016, counsel for the defendant, on the advice of the court, withdrew the documents before the court in order to produce them to counsel for the applicant.

At a hearing in open court on 4 May 2016, counsel for the applicant indicated that he had finally received copies of the documents requested and was now applying to the court for a ruling on the application for damages; with regard to this aspect of the claim, counsel for the defendant referred to the previous decisions of this court and of the Tribunal de première instance de Liège, division Verviers (Verviers Court of First Instance).

It has been established that the Town of Stavelot is at fault, as it did not produce the information requested within one month of receipt of the request to make the environmental information available; this led Mr DOUTRELOUX to bring a case before the Appeal Commission for the Right of Access to Environmental Information, which upheld his request.

Following that appeal, the applicant did not receive the information requested; therefore he brought proceedings before this court for non-material damage.

After a number of twists and turns, the applicant's request was satisfied between 16 April and 4 May 2016.

Damage for failure to supply information requested can, as in the past, be assessed *ex aequo et bono*.

The applicant's claim for €30 for each month of delay in supplying this information cannot be allowed. As a matter of law, he has not substantiated how this delay justifies an accrual of €30 per month.

He has, however, been subject to many comings and goings to court (to agree a timetable; adjournments; travel; oral hearings): his claim for costs should reflect these.

The current table of case preparation allowances provides for a maximum amount of €600 for a case assessed at a value between 250 and 750 euros.

Since the court cannot rule *ultra petita*, it will accept the amount calculated by the applicant, of €286.31 for the cost of the summons, plus the standard case preparation allowance of €220.

The court will allow the application for immediate enforcement, since there has never been any dispute about the right to obtain the information requested and, in the end, provided; rather, it is that the process of supplying the information was convoluted.

**ON THOSE GROUNDS,**

Ruling *inter partes* and with no further right of appeal,

Rejecting all arguments generally to the contrary,

We declare the action admissible and, moreover, well founded within the following limits:

We order the defendant to pay the applicant:

- **The sum of €100** in respect of non-material damage,
- **The sum of €506.31** in respect of costs.

We dismiss the applicant's remaining claims.

We declare this judgment immediately enforceable.

Judgment signed by the Justice of the Peace and the Clerk of the Court.

Clerk of the Court,

[*signed*]

Valérie PLANCHARD

Justice of the Peace,

[*signed*]

Victor DEMARTEAU