

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.
(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.1



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

Brussels, 23.1.2019
SG-Greffe(2019) D/ 987



LOGUE Fred, FP Logue Solicitors
8-10 Coke Lane, Smithfield
7 Dublin
IRELAND

NOTIFICATION PURSUANT TO ARTICLE 297 OF THE TFEU

Subject: COMMISSION DECISION (22.1.2019)

For the Secretary-General,

Robert ANDRECS

Encl. : **C(2019) 639 final**

EN





EUROPEAN COMMISSION

Brussels, 22.1.2019
C(2019) 639 final

Mr Fred Logue
FP Logue Solicitors
8-10 Coke lane
Smithfield, Dublin 7
Ireland

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹**

**Subject: Your confirmatory application for access to documents under
Regulation (EC) No 1049/2001 - Gestdem 2018/5137**

Dear Mr Logue,

I refer to your letter of 30 November 2018, registered on the same day, in which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter, 'Regulation (EC) No 1049/2001').

1. SCOPE OF YOUR REQUEST

On 25 September 2018 you submitted, on behalf of your clients³, an initial application for access to documents under Regulation (EC) No 1049/2001, in which you requested access to documents containing descriptions of four technical standards prepared by the European Committee for Standardisation⁴:

- 'CEN EN 71-5:2015 Safety of toys – Part 5: Chemical toys (sets) other than experimental sets,
- CEN EN 71-4:2013 Safety of toys – Part 4: Experimental sets for chemistry and related activities,

¹ Official Journal L 345 of 29 December 2001, page 94.

² Official Journal L 145 of 31 May 2001, page 43.

³ Public.Resource.Org and Right to know CLG.

⁴ Comité Européen de Normalisation (CEN).

- CEN EN 71-12:2013 Safety of toys – Part 12: N-Nitrosamines and N-nitrosatable substances,
- CEN EN 12472:2005+A1:2009 Method for the simulation of wear and corrosion for the detection of nickel release from coated items’.

The European Commission has identified the following documents as falling under the scope of your application:

- European Committee for Standardisation harmonised European standard of 13 November 2015, EN 71-5:2015 ‘Safety of toys – Part 5: Chemical toys (sets) other than experimental sets’ (hereafter: ‘document 1’),
- European Committee for Standardisation harmonised European standard of 25 May 2013, EN 71-4:2013 ‘Safety of toys – Part 4: Experimental sets for chemistry and related activities’ (hereafter: ‘document 2’),
- European Committee for Standardisation harmonised European standard of 29 June 2013, EN 71-12:2013 ‘Safety of toys – Part 12: N-Nitrosamines and N-nitrosatable substances’ (hereafter: ‘document 3’),
- European Committee for Standardisation harmonised European standard of 13 January 2017, EN 12472:2005+A1:2009 ‘Method for the simulation of wear and corrosion for the detection of nickel release from coated items’ (hereafter: ‘document 4’).

Your initial application was attributed to the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, which provided its reply on 15 November 2018.

In its reply, the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs refused access to the documents concerned, based on the exception provided for in Article 4(2), first indent, of Regulation (EC) No 1049/2001 (protection of commercial interests of a natural or legal person).

In your confirmatory application, you request a review of this position.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation (EC) No 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

Having carried out a detailed assessment of your request in light of the provisions of Regulation (EC) No 1049/2001, I regret to inform you that I have to confirm the refusal to grant access to the documents concerned. The underlying exception is the one provided for in Article 4(2), first indent, of Regulation (EC) No 1049/2001 (protection of commercial interests of a natural or legal person).

The detailed reasons are set out below.

2.1. Protection of commercial interests of a natural or legal person

Article 4(2), first indent, of Regulation (EC) No 1049/2001 provides that '[t]he institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, [...] unless there is an overriding public interest in disclosure'.

Documents 1 – 3 contain European harmonised standards on toy safety. They are part of European harmonised standard EN 71 relating to the safety of toys.

Document 4 includes the harmonised European standard for the method of the simulation of wear and corrosion for the detection of nickel release from coated items.

In line with the provisions of Regulation (EU) No 1025/2012⁵, the European Commission may request European standardisation organisations, such as the European Committee for Standardisation, to draft a European standard for the application of legal requirements set out in EU legislation.

The standards included in the four documents concerned aim to support the legal requirements provided for in Directive 2009/48/EC⁶ on the safety of toys (Toy Safety Directive) and Regulation (EC) No 1907/2006⁷ concerning Registration, Evaluation, Authorisation and Restriction of Chemicals⁸.

The standards in question support the above-mentioned legislation by providing specifications and test methods that can be used to demonstrate compliance of the products with the requirements provided for in that legislation.

It needs to be emphasised that a European harmonised standard, once adopted by the European Committee for Standardisation, is transposed by each national standardisation body⁹ as an identical national standard. In practical terms, transposition involves adding the reference in line with the national nomenclature. The transposed standards (based on

⁵ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council. Official Journal L 316, 14 November 2012, page 12.

⁶ Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys Official Journal L 170, 30 June 2009, pages 1–37.

⁷ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC. Official Journal L 396, 30 December 2006, page 1.

⁸ REACH Regulation.

⁹ <https://standards.cen.eu/dyn/www/f?p=CENWEB:5>.

the harmonised standards adopted by European Committee for Standardisation) are made available to the public through the sales points of the national standardisation bodies as national standards. The European Committee for Standardisation itself does not make the standard available to the public.

In your confirmatory application, you underline that ‘the [r]equested [d]ocuments are harmonised standards which, having been published in the Official Journal, become part of the law of the EU’. In this context, you refer to the Judgment in Case C-613/14¹⁰, in which the Court allegedly confirmed such a status of the harmonised standards adopted based on Directive 89/106.¹¹

In that judgment, the Court recognised the presumption of conformity with the requirements of the above-mentioned Directive, of products that satisfy the technical specifications provided for in harmonised standards.¹² It also recalled that evidence of compliance of a construction product with the essential requirements contained in Directive 89/106¹³ may be provided by means other than proof of compliance with harmonised standards¹⁴.

The Judgment in Case C-613/14 has thus clarified the legal value of the harmonised standards. However, it does not have the effect of rendering Regulation (EC) No 1049/2001 and, in particular, the legal restrictions to access to documents provided for in its Articles 4 and 9, ineffective.

In this context, in your confirmatory application, you contest the position of the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, in so far as the applicability of the exception in Article 4(2), first indent, of Regulation (EC) No 1049/2001 is concerned. In particular, you argue that the documents requested do not benefit from the protection of copyright, as they ‘merely contain lists of factual information or procedures and therefore cannot be considered to be the expression of the intellectual creation of the author reflecting his personality and expressing his free and creative choices’.

¹⁰ Judgment of the Court of 27 October 2016, in Case C-613/14, request for preliminary ruling from the Supreme Court of Ireland, in the proceedings *James Elliott Constructions Limited v Irish Asphalt Limited*, (ECLI:EU:C:2016:821).

¹¹ Council Directive of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products. Official Journal L 40 of 11 February 1989, pages 12 – 26. Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC. Official Journal L 88, 4 April 2011, pages 5–43.

¹² Judgment of the Court of 27 October 2016, in Case C-613/14, request for preliminary ruling from the Supreme Court of Ireland, in the proceedings *James Elliott Constructions Limited v Irish Asphalt Limited*, (ECLI:EU:C:2016:821), paragraph 38.

¹³ Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products. Official Journal L 40, 11 February 1989, pages 12–26

¹⁴ Judgment of the Court of 27 October 2016, in Case C-613/14, request for preliminary ruling from the Supreme Court of Ireland, in the proceedings *James Elliott Constructions Limited v Irish Asphalt Limited*, (ECLI:EU:C:2016:821), paragraph 42.

Contrary to what you allege, however, the documents in question are protected by copyright. They do contain information that can be considered as factual, or relating to procedures. However, the texts of the standards, while taking into account the specific requirements provided for in the legislation they support, were drafted by its authors in a way that is sufficiently creative to deserve copyright protection. The length of the texts implies that the authors had to make a number of choices (including in the structuring of the document), which results in the document being protected by copyright¹⁵. Consequently, the document as a whole makes it an original work of authorship, deserving protection under the copyright rules.

In your confirmatory application, you argue that the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs did not provide, in its initial reply, any proper statement of reasons. In this regard, you underline that the initial reply did not explain how the interest protected by the exception in Article 4(2), first indent, of Regulation (EC) No 1049/2001 could be undermined through the disclosure of the documents in question. You also point out that the position of the originator of the documents was not sought at the stage of handling of your initial application.

In this context, I would like to observe that after the Judgment in Case C-613/14, the European Committee for Standardisation, together with European Committee for Electrotechnical Standardisation¹⁶, issued a position paper¹⁷, in which they, as copyright holders for European standards, explicitly considered that, on the basis of the Judgment in Case C-613/14, there were no grounds to challenge their copyright and distribution policies of harmonised standards. Consequently, the European Commission considered that the consultation under Article 4(4) of Regulation (EC) No 1049/2001 was not necessary, as the position of the originator of the documents, the copyright holder in question, was already made publicly known through the above-mentioned position paper.

Please note in this respect that documents that are disclosed under Regulation (EC) No 1049/2001 become, legally speaking, public documents. Indeed, a document released following an application for access to documents would have to be provided to any other applicant that would ask for it.

As explained in the initial reply of the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, the national standardisation bodies, members of the European Committee for Standardisation, require payment of a fee in order to acquire a copy of any of the national standards transposing the harmonised standards.

¹⁵ Judgment of the Court of 16 July 2009, in Case C-5/08, request for preliminary ruling from the Danish Supreme Court in the proceedings *Infopaq International A/S v Danske Dagblades Forening*, (ECLI:EU:C:2009:465) and judgment of the Court of 1 December 2011, in Case C-145/10, request for preliminary ruling from the Tribunal of Commerce in Vienna, in the proceedings *Eva-Maria Painer v Standard VerlagsGmbH, Axel Springer AG, Süddeutsche Zeitung GmbH, Spiegel-Verlag Rudolf Augstein GmbH & Co KG, Verlag M. DuMont Schauberg Expedition der Kölnischen Zeitung GmbH & Co KG* (ECLI:EU:C:2011:798).

¹⁶ CENELEC.

¹⁷ https://www.cencenelec.eu/News/Policy_Opinions/PolicyOpinions/PositionPaper_Consequences_Judgment_Elliott%20case.pdf.

Consequently, the impact of public disclosure of the harmonised standards included in documents 1 – 4 on the commercial interests of the European Committee for Standardisation and of its national members is evident. Economic operators and the public at large would not be willing to pay a fee in order to obtain a copy of the standard, if they could obtain it free of charge from the European Commission. That, in turn, would have implications on the income gained from the fees, which would significantly decrease. Consequently, the commercial interests of the European Committee for Standardisation and its members would be undermined. It needs to be emphasised in this context, that the concept of ‘commercial interests’ protected by virtue of the exception in Article 4(2), first indent, of Regulation (EC) No 1049/2001, is not limited to the interests of companies and economic operators, but may also encompass the interests of public bodies, or, as in the case at hand, publicly recognised bodies tasked with functions in the public interest.¹⁸ Furthermore, the European Committee for Standardisation and its members, contribute to the performance of tasks of public interest, but remain, however, private entities exercising an economic activity in a situation of competition on the relevant services market.¹⁹

The fact that the copies of the harmonised standards are available for consultation free of charge in the public libraries does not change the above-mentioned conclusions. Indeed, the effect of public disclosure of the documents in question under Regulation (EC) No 1049/2001 cannot be compared with the possibility to consult the document (on the spot) in public libraries.

In the light of the above, it is evident that there is a reasonably foreseeable risk that public disclosure of the documents concerned would harm the interest protected by Article 4(2), first indent of Regulation (EC) No 1049/2001.

3. NO PARTIAL ACCESS

I have examined the possibility of granting partial access to the document concerned, in accordance with Article 4(6) of Regulation (EC) No 1049/2001.

However, in light of the explanations provided above, no meaningful partial access that would not undermine the protection of the interests provided for in Article 4(2), first indent of Regulation (EC) No 1049/2001, is possible.

4. NO OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exception laid down in Article 4(2) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

¹⁸ Judgment of the General Court of 6 December 2012 in Case T-167/10, *Evropaïki Dynamiki v Commission*, (ECLI: ECLI:EU:T:2012:651), paragraph 85-86.

¹⁹ Judgment of the Court of 5 December 2018, in Case T-875/16, *Falcon Technologies International LLC v Commission*, (ECLI:EU:T:2018:877), paragraph 47.

In your confirmatory application, you argue that '[t]he overriding public interest already follows from the fact that according to the [...] case law [Case C-613/14], harmonised standards such as the [r]equested [d]ocuments "form part of EU law". Hence, there is a constitutional imperative to publish the [r]equested [d]ocuments [...]'.

As already explained in part 2.1 of this decision, the effects of the Judgment in Case 613/14 have to be considered in the context in which this Judgment was rendered. In the view of the European Commission, that Judgment does not create the obligation of proactive publication of the harmonised standards in the Official Journal, nor does it establish an automatic overriding public interest in their disclosure.

With regard to the exception provided for in the first indent of Article 4(2) of Regulation (EC) No 1049/2001, on the basis of which access is refused to the documents concerned, and in line with the provisions of Article 6 of Regulation (EC) No 1367/2006²⁰, an overriding public interest is deemed to exist in so far as information relating to emissions into environment is concerned.

In this context, by referring to the relevant case law²¹ you argue that the documents in question indeed contain environmental information relating to the emissions into the environment. In this regard, you observe that 'the documents requested' are the harmonised standards allowing the public to foresee the quantities and nature of substances emitted into the environment under normal and realistic conditions of use [...]' . Consequently, there is, in your view, an overriding public interest in their disclosure.

In its Judgment in Case C-673/13 P, the Court indeed considered that the concept of 'information which relates to emissions into the environment' includes data that will allow the public to know what is actually released in the environment or what, it may be foreseen, will be released into the environment under normal or realistic conditions of use of the product or substance in question, as well as 'information enabling the public to check whether the assessment of actual or foreseeable emissions is correct'.²² However, according to the Court's assessment, it 'may not, however, in any event, include information containing any kind of link, even direct, to emissions into the environment'²³, such as general measures aimed at regulating emissions.

It is not clear, how information about the means of verification of compliance of the products with the requirements provided for in Directive 2009/48/EC and Regulation (EC) No 1907/2006 would allow the public to find out what is actually released into the

²⁰ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, Official Journal L 264, 25 September 2006, pages 13–19.

²¹ Judgment of 23 November 2016 in Case C-442/14 *Bayer CropScience* (ECLI:EU:C2016:890), paragraph 79.

²² Court of Justice, 23 November 2016, Case C-673/13 P, *Stichting Greenpeace Nederland and PAN Europe*, paragraph 79-80.

²³ *Idem*, paragraph 81.

environment, in particular considering that the test of compliance is carried out before placing the product on the market.

Please also note that in the recent Judgment in Case T-498/14, the Court ruled that in order to qualify as an environmental information on emissions, the information must contain data that enable to understand to what extent and for which period of time the released substances would contribute to increasing the percentage of emissions risks in the environment.²⁴

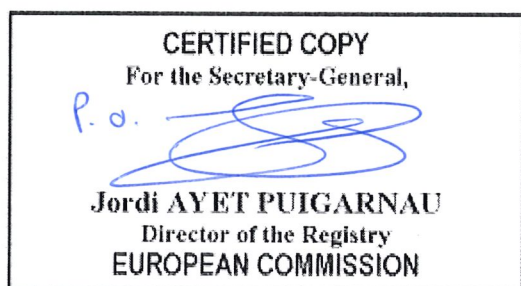
It follows from this that the documents requested, which are harmonised standards, used by the manufacturers of the products to which the harmonised standards relate, cannot be considered as containing information relating to emissions in the environment in the sense of Regulation (EC) No 1367/2006.

Consequently, I consider that, in the present case, there is no overriding public interest that would outweigh the interest in safeguarding the commercial interests (including copyright) of the European Committee for Standardisation and its members, falling under the exceptions provided for in Article 4(2), first indent of Regulation (EC) No 1049/2001.

5. MEANS OF REDRESS

I would like to draw your attention to the means of redress that are available against this decision, that is, judicial proceedings and complaints to the Ombudsman under the conditions specified respectively in Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,



*For the European Commission
Martin SELMAYR
Secretary-General*

²⁴ Judgment of 12 December 2018 in Case T-498/14, *Deutsche Umwelthilfe v Commission*, (ECLI:EU:T:2018:913), paragraphs 109 - 113.

**EUROPEAN COMMISSION**

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

Brussels,
GROW/D3/ALR/dr (2018) 5993057***By registered letter with
acknowledgment of receipt***Mr Fred Logue
FP Logue Solicitors
8-10 Coke lane
Smithfield, Dublin 7
Ireland***Advance copy by email:
info@fplogue.com*****Subject: Your application for access to documents – Ref GestDem No 2018/5137**

Dear Mr Logue,

We refer to your e-mail dated 25/09/2018 in which you make a request for access to documents, registered on 02/10/2018 under the above-mentioned reference number.

You request access to the following documents:

CEN EN 71-5:2015
Safety of toys - Part 5: Chemical toys (sets) other than experimental sets 13/11/2015

CEN EN 71-4:2013
Safety of toys - Part 4: Experimental sets for chemistry and related activities 28/05/2013

CEN EN 71-12:2013
Safety of toys - Part 12: N-Nitrosamines and N-nitrosatable substances 29/06/2013

CEN EN 12472:2005+A1:2009
Method for the simulation of wear and corrosion for the detection of nickel release from coated items 13/01/2017

We have identified the documents requested in an internal database of the European Commission, under the following reference numbers:

- 00052103

- 00052083
- 00052091
- 00347006

The first three standards mentioned above are harmonized standards in support of Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys¹ (hereafter referred to as 'Toy Safety Directive'). The fourth standard (EN 12472:2005+A1:2009) is one of several standards developed in support of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)², more specifically related to restriction entry 27 in Annex XVII to REACH.

European Standards (ENs) are adopted by either one of the three recognized European Standardisation Organisations (ESOs): CEN (European Committee for Standardization), CENELEC (European Committee for Electro-technical Standardization) and ETSI (European Telecommunications Standards Institute) which are private organizations.

Given their status as private organisations, they are the owners of their products. In other words, they possess the copyright on all documents, technical deliverables and publications, including European standards that are developed by them. As owners of the copyright, they are also free to decide whether they offer the use of their publications for a fee or free of charge.

As a result, CEN and CENELEC charge a fee for their standards whilst ETSI publications are generally freely available.

The standards quoted in your e-mail are European Standards (EN) produced by CEN. Thus, they are subject to a charge.

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 the documents requested cannot be disclosed, as disclosure is prevented by an exception to the right of access laid down in Article 4 of this Regulation.

Disclosure of the requested document could undermine the protection of commercial interests of a legal person, including intellectual property, which are protected under Article 4, paragraph 2, 1st indent of Regulation (EC) No 1049/2001, as CEN is the copyright owner of all deliverables produced by their respective technical committees. Consequently, the copyright and exploitation rights (distribution and sales) on any CEN publication (including draft European standards) belong exclusively to CEN and its national members from whom the (draft) standards can be obtained.

Please note that the texts of European standards in the EN 71 series can only be purchased from a national standardisation body against payment. The following site of CEN (European Standardization Committee) provides links to the national standardisation bodies' websites: <http://standards.cen.eu/dyn/www/f?p=CENWEB:5> .

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02009L0048-20171124>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006R1907-20140410>

If you decide to purchase copies of the standards requested, I would warmly recommend that you compare prices before actually placing an order, as experience shows that the price for the same text can differ significantly between national standardisation bodies.

However, to the best of our knowledge, it is also possible to gain access to European standards for free. We were informed that there are public libraries that have the texts of standards at their disposal and make them available free of charge. The national standardisation bodies might be in a position to provide you with further information on this.

We have considered whether partial access could be granted to the document/documents requested. However, the disclosure of only some parts of the documents requested cannot be granted as the documents requested are covered by the exception mentioned above in their entirety.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. In the present case, we could not identify any public interest in disclosure of the requested documents

In accordance with Article 7(2) of Regulation 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, Document Management & Access to Documents (SG.C.1)
BERL 5/282
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Lowri Evans

ANTTI PELTOMÄKI
Deputy Director-General
DG INTERNAL MARKET, INDUSTRY,
ENTREPRENEURSHIP AND SMEs

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.

(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.2

ARTICLES OF INCORPORATION

2977811

I

A. The name of this corporation is **PUBLIC.RESOURCE.ORG, INC.**

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

APR 13 2007

II

A. This corporation is a nonprofit **PUBLIC BENEFIT CORPORATION** and is not organized for the private gain of any person. It is organized under the **NONPROFIT PUBLIC BENEFIT CORPORATION LAW FOR PUBLIC AND CHARITABLE PURPOSES.**

B. The specific purpose of this corporation is to create, architect, design, implement, operate and maintain public works projects on the Internet for **EDUCATIONAL, CHARITABLE, AND SCIENTIFIC PURPOSES** to the benefit of the general public and the public interest; to increase and diffuse knowledge about the Internet in its broadest sense; to promote and facilitate the expansion, development, and growth of the public infrastructure of the Internet by any means consistent with the public interest through other activities, including, but not limited to, publications, meetings, conferences, training, educational seminars, and the issuance of grants and other financial support to educational institutions, foundations and other organizations exclusively for **EDUCATIONAL, CHARITABLE, AND SCIENTIFIC PURPOSES.**

III

A. The name and address in the State of California of this corporation's initial agent for service of process is:

Carl Malamud
Public.Resource.Org, Inc.
c/o O'Reilly Media
1005 Gravenstein Highway North
Sebastopol, CA 95472

IV

A. This corporation is organized and operated exclusively for **CHARITABLE PURPOSES** within the meaning of Section 501(c)(3), Internal Revenue Code.

B. **NO SUBSTANTIAL PART OF THE ACTIVITIES** of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V

A. The property of this corporation is **IRREVOCABLY DEDICATED TO CHARITABLE PURPOSES** and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated **EXCLUSIVELY FOR CHARITABLE PURPOSES** and which has established its tax exempt status under Section 501(c)(3), Internal Revenue Code.



Carl Malamud, Incorporator

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.

(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.3

9947911/1

Number 565565

DUPLICATE FOR THE FILE



1681958

Certificate of Incorporation

I hereby certify that

RIGHT TO KNOW COMPANY LIMITED BY GUARANTEE

is this day incorporated under
the Companies Act 2014,
and that the company is
a Company Limited by Guarantee.

Given under my hand at Dublin, this
Friday, the 24th day of July, 2015

for Registrar of Companies

Certificate handed to/posted to:*

**Sent by
Registered Post**

29 JUL 2015

*Fred Logue
7 Riverside Cottages
Julianstown
Co. Meath*

Signed: _____

Date: _____

**Delete as appropriate*

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.
(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.4

**PUBLIC.RESOURCE.ORG ~ A Nonprofit Corporation****Open Source America's Operating System****"It's Not Just A Good Idea—It's The Law!"**

March 23, 2019

To: The Registrar
The General Court
Luxembourg**via e-Curia**

Dear Registrar

Pursuant to Article 51(3) of the Rules of Procedures of the General Court I confirm that Public.Resource.Org Inc, a non-profit public benefit corporation incorporated in the State of California hereby authorizes the following lawyers, each individually and independently of each other, to act on its behalf:

Name	Firm	Address
Fred LOGUE	FP Logue Solicitors	8/10 Coke Lane, Smithfield, Dublin 7, Ireland
Andreas GRUENWALD	Morrison & Foerster LLP	Potsdamer Platz 1, 13th Floor, Berlin, Germany 10785
Christoph NUESSING	Morrison & Foerster LLP	Potsdamer Platz 1, 13th Floor, Berlin, Germany 10785
Jens HACKL	Morrison & Foerster LLP	Potsdamer Platz 1, 13th Floor, Berlin, Germany 10785

This power of attorney particularly includes the authority to serve and accept documents, to accept summons, to transfer the power of attorney in whole or partially to others, to take, withdraw, or waive the required legal counter measures, to close a lawsuit or extrajudicial negotiation by mutual settlement, waiver, or acknowledgement, to accept money, valuables and deeds, including the matter in dispute and any amounts to be reimbursed by the opposition, the judicial cash office or any other authorities and its disposal, to make payments and dispose of credit assets held by tax authorities, to access files, registers, or land registers on behalf of the grantor and to make or request copies thereof.

Yours Sincerely

Carl Malamud

Right to Know CLG
25 Herbert Street
Dublin 2

To: The Registrar
The General Court
Luxembourg
via e-Curia

Dear Registrar

Pursuant to Article 51(3) of the Rules of Procedure of the General Court I confirm that Right to Know CLG, a company incorporated in Ireland authorizes the following lawyers to act on its behalf:

Name	Firm	Address
Fred LOGUE	FP Logue Solicitors	8/10 Coke Lane, Smithfield, Dublin 7, Ireland
Andreas GRÜNWALD	Morrison Foerster	Potsdamer Platz 1, 13th Floor, Berlin, Germany 10785
Christoph NÜSSING	Morrison Foerster	Potsdamer Platz 1, 13th Floor, Berlin, Germany 10785
Jens HACKL	Morrison Foerster	Potsdamer Platz 1, 13th Floor, Berlin, Germany 10785

This power of attorney particularly includes the authority to serve and accept documents, to accept summons, to transfer the power of attorney in whole or partially to others, to take, withdraw, or waive the required legal counter measures, to close a lawsuit or extrajudicial negotiation by mutual settlement, waiver, or acknowledgement, to accept money, valuables and deeds, including the matter in dispute and any amounts to be reimbursed by the opposition, the judicial cash office or any other authorities and its disposal, to make payments and dispose of credit assets held by tax authorities, to access files, registers, or land registers on behalf of the grantor and to make or request copies thereof.

Yours Sincerely

Ken Foxe
Director



Right to Know CLG

Registered in Dublin, Ireland No 565565, Registered Office:

25 Herbert Place, Dublin 2, Ireland

Directors: G Sheridan, K Foxe, M Browne

www.righttoknow.ie

www.thesory.ie

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.

(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.5

PRACTISING CERTIFICATE
FOR THE PRACTICE YEAR ENDING
31 DECEMBER 2019



Pursuant to the Solicitors Acts 1954 to 2015
the Registrar of Solicitors hereby certifies that

Fred Logue BSc(Hons) PhD

whose solicitor number is

S14222

is entitled to practise as a solicitor
from the date of this certificate until 31 December 2019.

The date of this certificate is

1st January 2019

A handwritten signature in cursive script that reads 'John Elliot'.

John Elliot

Registrar of Solicitors

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.

(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.6

Urkunde

Herr Assessor

DR. ANDREAS KLAUS GRÜNWARD

- geboren am 31.10.1973 in Stadthagen -

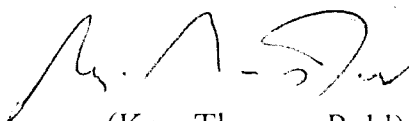
wird zur

RECHTSANWALTSCHAFT

zugelassen.

Berlin, den 11.12.2002

Der Präsident der Rechtsanwaltskammer



(Kay-Thomas Pohl)

Urkunde

Herr Assessor

DR. JENS HACKL

- geboren am 05.06.1982 in Rodewisch -

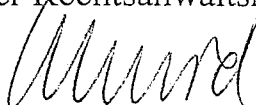
wird zur

RECHTSANWALTSCHAFT

zugelassen.

Berlin, den 06.06.2012

Die Präsidentin der Rechtsanwaltskammer Berlin


Irene Schmid

Urkunde

Herr Assessor

CHRISTOPH NÜßING

- geboren am 24.01.1985 in Warendorf -

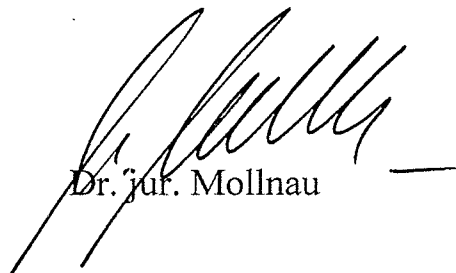
wird zur

RECHTSANWALTSCHAFT

zugelassen.

Berlin, den 10.02.2015

Der Präsident der Rechtsanwaltskammer Berlin



Dr. jur. Mollnau

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.

(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.7

FPLOGUE SOLICITORS

Our Reference: FPL/624/02572

Your Reference:

25 September 2018

By email only

DG GROW
 European Commission
 GROW-ACCES-DOCUMENTS@ec.europa.eu

Re: Request for Access to Documents
Our clients: Public.Resource.Org Inc and Right to Know CLG

Dear Sirs

We make this request for access to documents on behalf of our clients:

1. Public.Resource.Org, Inc. which is a charity incorporated in California, USA; and
2. Right to Know CLG, a non-governmental organization incorporated in Dublin Ireland.

On behalf of our clients we request copies of the following technical standards (**Requested Documents**)

ESO ¹	Reference and title of the standard	First publication in OJ
CEN	EN 71-5:2015 Safety of toys - Part 5: Chemical toys (sets) other than experimental sets	13/11/2015
CEN	EN 71-4:2013 Safety of toys - Part 4: Experimental sets for chemistry and related activities	28/05/2013
CEN	EN 71-12:2013 Safety of toys - Part 12: N-Nitrosamines and N-nitrosatable substances	29/06/2013
CEN	EN 12472:2005+A1:2009 Method for the simulation of wear and corrosion for the detection of nickel release from coated items	13/01/2017

¹ European standardisation organisation

8/10 Coke Lane
 Smithfield, Dublin 7
 Ireland

Principal: Fred Logue
 Consultant: TJ McIntyre

p: +353 (0)1 531 3510
f: +353 (0)1 531 3513
e: info@fplogue.com
www.fplogue.com

Our clients rely on Regulation 1049/2001 as applied by Regulation 1367/2006 in making this request and also on the judgement of the Court in *James Elliott Construction*² where it was held that technical standards form part of EU law. As such notice of all of the Requested Standards has been published in the Official Journal thereby imposing a duty on the Member States to transpose them into national law. The Requested Standards form part of Community legislation on the environment and therefore are in a class of environmental information which the Community institutions are required to make available and to disseminate pursuant to article 4(2)(a) of Regulation 1367/2006. In addition, the Requested Standards contain information relating to emissions into the environment within the meaning of article 6 of Regulation 1367/2006 and therefore there is, in fact, an overriding public interest in granting this request.

We look forward to receipt of electronic copies of the Requested Documents by email to info@fplogue.com.

Yours faithfully,



FP LOGUE

² Judgment of 27 October 2016 – Case C-613/14 *James Elliott Construction* ECLI:EU:C:2016:821 paragraph 40

IN THE COURT OF JUSTICE OF THE EUROPEAN UNION

GENERAL COURT

BETWEEN:

(1) PUBLIC.RESOURCE.ORG INC.
(2) RIGHT TO KNOW CLG

Applicants

v

THE EUROPEAN COMMISSION

Defendant

ANNEX A.8

FPLOGUE SOLICITORS

Our Reference: FPL/624/02572

Your Reference: 2018/5137

30 November 2018

By email only

European Commission
Secretary-General SG.C.1
sg-acc-doc@ec.europa.eu

Re: Confirmatory application
Our clients: Public.Resource.Org Inc and Right to Know CLG

Dear Sirs

We make this confirmatory application on behalf of our clients:

1. Public.Resource.Org, Inc., a charity incorporated in California, USA; and
2. Right to Know CLG, a non-governmental organization incorporated in Dublin Ireland.

By way of letter received on 22 November 2018 (with advance copy received by email on 15 November 2018) (the **Contested Decision**) our clients were refused access to the following documents held by the European Commission (the **Requested Documents**):

ESO ¹	Reference and title of the standard	First publication in OJ	Reference
CEN	EN 71-5:2015 Safety of toys - Part 5: Chemical toys (sets) other than experimental sets	13/11/2015	00052103
CEN	EN 71-4:2013 Safety of toys - Part 4: Experimental sets for chemistry and related activities	28/05/2013	00052083
CEN	EN 71-12:2013 Safety of toys - Part 12: N-Nitrosamines and N-nitrosatable substances	29/06/2013	00052091
CEN	EN 12472:2005+A1:2009	13/01/2017	00347006

¹ European standardisation organisation.

8/10 Coke Lane
Smithfield, Dublin 7
Ireland

Principal: Fred Logue
Consultant: TJ McIntyre

p: +353 (0)1 531 3510
f: +353 (0)1 531 3513
e: info@fplogue.com

www.fplogue.com

	Method for the simulation of wear and corrosion for the detection of nickel release from coated items		
--	---	--	--

The request was explicitly based on Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission Documents (the **Transparency Regulation**) and on Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters to Community institutions and bodies (the **Environmental Transparency Regulation**).

The request observed that the Requested Documents form part of EU law as confirmed by the European Court of Justice (**ECJ**) in *James Elliott Construction*² since compliance with such standards allows a presumption that the product in question satisfies essential requirements set down by EU law for the placing of such products on the market and to be used freely within the territory of all Member States with the result that Member States may not impose any additional requirements on such products³. While evidence of compliance may be demonstrated by other means this does not call into question the legal effect of harmonised standards⁴.

Nature of the Requested Documents

The Requested Documents are harmonised standards which, having been published in the Official Journal, become part of the law of the EU.

EN:71-4:2015 specifies requirements for the maximum amount and, in some cases, the maximum concentration of certain substances and mixtures used in experimental sets for chemistry and related activities. The substances and mixtures include those that are dangerous or which in excessive amounts could harm the health of children using them.

EN 71-5:2013 specifies similar requirements and test methods for the substances and materials used in chemical toys (sets) other than experimental sets.

EN:71-14:2013 specifies the requirements and test methods for carcinogenic substances, N-nitrosamines and N-nitrosatable substances, for:

- toys and parts of toys made from elastomers and intended for use by children under 36 months;
- toys and parts of toys made from elastomers and intended to be placed in the mouth;
- finger paints for children under 36 months.

These include balloons and teethingers.

Toys which meet these standards are presumed to be in conformity with the requirements covered by those standards as set out in the Toy Safety Directive.

EN 12472:2005+A1:2009 specifies one of the mandatory test methods which shall be used for demonstrating conformity with restriction entry number 27 in Annex XVII of REACH. This entry deals with the maximum rate of Nickel release from certain products. Nickel is classified as the top contact allergen in the world and is suspected to be a carcinogen⁵.

² Judgment of 27 October 2016 – Case C-613/14 *James Elliott Construction* ECLI:EU:C:2016:821 paragraph 40.

³ Ibid paragraph 41

⁴ Ibid paragraph 42

⁵ <https://en.wikipedia.org/wiki/Nickel#Toxicity> (accessed 25 November 2018).

The Contested Decision

In the Contested Decision, the assertion that the Requested Documents are part of EU Law was not contradicted but access was nevertheless refused on the basis that it is prevented by the exception laid down by article 4(2) first indent of the Transparency Regulation. In particular the Contested Decision asserted that access would undermine the protection of the commercial interests of CEN which owns alleged copyright in the Requested Documents which it makes available in return for payment. The Contested Decision also concluded that partial access could not be granted and that no public interest in releasing the Requested Documents could be identified.

The Contested Decision did not contain any consideration of the effect of the Environmental Transparency Regulation on the request.

Confirmatory Application

The Contested Decision is incorrect and full access to the Requested Documents must be granted.

Our clients have a right to access to the Requested Documents under article 15(3) subsection 1 TFEU in conjunction with article 2(1) Transparency Regulation. According to these provisions, there is a general right of access to documents of the institutions.

This access right can only be restricted or denied if certain exemptions, which are provided in article 4 of the Transparency Regulation, would be met. It is to be noted that the Transparency Regulation establishes a relationship of rule and exception according to which “[i]n principle, all documents of the institutions should be accessible to the public” (cf. recital 11 of the Transparency Regulation). Hence, the ECJ held several times that, since “the purpose of the regulation is to give the public the widest possible right of access, the exceptions to that right set out in Article 4 of the regulation must be interpreted and applied strictly”⁶.

Against this background, access to the Requested Documents must be granted since the exemptions provided in article 4 of the Transparency Regulation are not met in the present case. The Commission based its refusal on an alleged undermining of CEN’s commercial interests due to an alleged copyright (article 4(2) first indent of the Transparency Regulation) and also concluded that no public interest in releasing the Requested Documents could be identified. This does not stand up to a legal analysis.

No copyright protection

First the Commission has not set out how the Requested Documents are works benefitting from the protection of copyright. The Requested Documents merely contain lists of factual information or procedures and therefore cannot be considered to be the expression of the intellectual creation of the author reflecting his personality and expressing his free and creative choices. Therefore, the Requested Documents are not works which are protected by copyright law.

Undermining of CEN’s commercial interests not demonstrated by the Commission

Second and without prejudice, the Commission has not demonstrated specifically and actually how the interest allegedly protected by article 4(2) first indent of the Transparency Regulation would be undermined.

According to established case law of the ECJ, the Commission must “explain how disclosure of [a certain] document could specifically and effectively undermine the interest protected by the exception – among those provided for in Article 4 of Regulation No 1049/2001 – upon which it is relying [whereas] the risk of that undermining must be reasonably foreseeable and not purely hypothetical”⁷.

⁶ Judgment of 18 December 2007 – Case C-64/05 P *Sweden / Commission* ECLI:EU:C:2007:802 paragraph 66.

⁷ Judgment of 21 July 2011 – Case C-506/08 P *MyTravel* ECLI:EU:C:2011:496 paragraph 76.

The Commission does not meet this standard in the present case since it merely speculates that granting the requested access “*could undermine the protection of the commercial interests*” of CEN. Equally, it is not apparent from the Contested Decision how this interest would be undermined. In particular, the Commission observes that the Requested Documents may be available for consultation free of charge in public libraries in which case disclosure cannot undermine the commercial interests of CEN since it would not be at a loss. It should also be noted that disclosure by the Commission must be without prejudice to the rights of CEN which remains free to assert its alleged copyright against any further unlawful use of the Requested Documents. It also appears that the Contested Decision was made without consultation with CEN in which case it is difficult to see how the Commission can reach any conclusion as to whether CEN’s commercial interests would be undermined including making an assessment of the likelihood and extent of such undermining.

Finally, the Commission did also not – as required by the ECJ’s case law – “*balance the particular interest to be protected by non-disclosure of the document concerned against, inter alia, the public interest in the document being made accessible in the light of the advantages stemming, as noted in recital 2 of the preamble to Regulation No 1049/2001, from increased openness, in that this enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system*”⁸.

No other commercial interest is engaged by this request which means that article 4(2) first indent of the Transparency Regulation does not prevent disclosure of the Requested Documents.

In any event: overriding public interest in disclosure

Regardless of whether or not article 4(2) first indent of the Transparency Regulation is met (*quod non*), there is in any event an overriding public interest in disclosure of the Requested Documents:

- The overriding public interest already follows from the fact that, according to the ECJ’s case law, harmonized standards such as the Requested Documents “*form part of EU law*”⁹. Hence, there is a constitutional imperative to publish the Requested Documents (cf. article 42 of the Charter of Fundamental Rights of the European Union and article 15 TFEU).

The European Union is founded on the principals of the rule of law and of fundamental rights and freedoms. One aspect of the rule of law is that the law should be accessible¹⁰ and the citizen “*must be able to have an indication that is adequate in the circumstances of the legal rules applicable to a given case*”¹¹. This is also recognized by recital 6 of the Transparency Regulation according to which “*documents should be made directly accessible to the greatest possible extent [...] in cases where the institutions are acting in their legislative capacity, including under delegated powers*”. In consideration of this, the ECJ held that the “*possibility for citizens to find out the considerations underpinning legislative action is a precondition for the effective exercise of their democratic rights*”¹².

⁸ Judgment of 1 July 2008 – Case C-39/05 P and C-52/05 P *Turco* ECLI:EU:C:2008:374 paragraph 45.

⁹ See footnote 2 and also “Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee: Harmonised standards: Enhancing transparency and legal certainty for a fully functioning Single Market” Brussels 22.11.2018 COM(2018) 764 Final page 3.

¹⁰ German Constitutional Court, judgment of 29 July 1998 – Case 1 BvR 1143/90 *DIN-Normen* paragraph 27 (available at https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/1998/07/rk19980729_1bvr114390.html); cf. also Tom Bingham *The Rule of Law* (Penguin Books, 2011) Chapter 3 (available at https://archive.org/details/tom_bingham_the_rule_of_law).

¹¹ *The Sunday Times v. The United Kingdom (No 1)* Case 6538/74 [1979] ECHR 1 paragraph 79.

¹² Judgment of 1 July 2008 – Case C-39/05 P and C-52/05 P *Turco* ECLI:EU:C:2008:374 paragraph 46.

The request must be interpreted in light of these aspects and the access right in the Transparency Regulation cannot be interpreted in a way that obstructs the public's right of access to the law. This is even more true since the Requested Documents concern standards relating to the use of harmful substances and mixtures and there is a strong public interest in disclosing such information relevant to consumer protection, public health, environmental protection and the protection of children.

- The overriding public interest also follows from article 5(3)(b) of the Aarhus Convention¹³ as implemented by article 4(2)(a) of the Environmental Transparency Regulation.

According to these provisions, the Commission has an obligation to progressively publish all “*environmental information*”, particularly “*Community legislation on the environment or relating to it*”. The Requested Documents constitute legislation on or relating to the environment since they all deal with the (chemical) composition of certain products thereby aiming at “*preserving, protecting and improving the quality of the environment*” and “*protecting human health*” (cf. the definition of “*environmental law*” in article 2(1)(f) of the Environmental Transparency Regulation).

The Requested Documents consequently also constitute “*environmental information*” within the meaning of article 2(1)(d)(iii) Environmental Transparency Regulation as they are “*measures [...], such as [...] legislation [...] affecting or likely to affect elements and factors referred to in points (i) and (ii) [i.e. the elements of the environment]*”.

- The overriding public interest finally follows from article 6(1) Environmental Transparency Regulation.

According to that, when interpreting article 4(2) first indent of the Transparency Regulation, “*an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment*”. The ECJ held that the term “*emissions into the environment*” must be interpreted widely and “*covers emissions which are actually released into the environment at the time of the application of the product or substance in question and foreseeable emissions from that product or that substance into the environment under normal or realistic conditions of use of that product or substance corresponding to those under which the authorisation to place the product in question on the market is granted and which prevail in the area where that product is intended for use*”¹⁴.

This is true for the Requested Documents. They are harmonized standards allowing the public to foresee the quantities and nature of substances emitted into the environment under normal and realistic conditions of use of the relevant products and equally to check whether the products themselves conform to the relevant standards for release of substances into the environment and for putting products on the market. Hence, there is an overriding public interest in disclosure.

Conclusion

Taking all of this into account, the Contested Decision is flawed since the Commission has not correctly weighed up the competing interests. Insofar as the decision of the Commission is flawed or not made out to the standard demanded by the relevant regulations, the presumption in favour of disclosure must apply and the Requested Documents must be disclosed.

We look forward to receipt of electronic copies of the Requested Documents by email to info@fplogue.com.

¹³ United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

¹⁴ Judgment of 23 November 2016 – Case C-442/14 *Bayer CropScience* ECLI:EU:C:2016:890 paragraph 79.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "FP Logue".

FP LOGUE