



EUROPEAN COMMISSION

Brussels, 16.3.2025
C(2025) 1747 final

Mr Fred Logue

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 11 OF THE
DETAILED RULES FOR THE APPLICATION OF REGULATION (EC) No 1049/2001,
ANNEXED TO THE RULES OF PROCEDURE OF THE COMMISSION¹**

**Subject: Your confirmatory application for access to documents under
Regulation (EC) No 1049/2001 – EASE 2024/2975**

Dear Sir,

I refer to your letter of 23 July 2024, registered on 25 July 2024, in which you submit, on behalf of your clients, Public.Resource.Org, Inc and Right to Know CLG, 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’).

Please accept our apologies for the delay in the handling of your request.

1. SCOPE OF YOUR REQUEST

As a preliminary remark, please also accept our apologies for the misunderstandings that occurred in relation to the handling of your application. Whilst your confirmatory application dates back to 23 July 2024, and contests the implicit lack of reply from the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (hereafter ‘DG GROW’) to your initial request of 4 June 2024 within the statutory deadlines, it should be noted that DG GROW issued an explicit initial reply on 8 January 2025, which will be the subject of the assessment provided in the present confirmatory decision. Consequently, for the sake of clarity, it should be outlined that the present confirmatory decision is circumscribed to the review of the initial reply of the DG GROW of 8 January 2025.

¹ Commission Decision (EU) 2024/3080 of 4 December 2024 establishing the Rules of Procedure of the Commission and amending Decision C(2000) 3614 (OJ L, 2024/3080, 5.12.2024, ELI: <http://data.europa.eu/eli/dec/2024/3080/oj>).

² OJ L 145 of 31 May 2001, p. 43.

On 4 June 2024, you submitted an initial application for public access to documents under Regulation (EC) No 1049/2001 and Regulation (EC) No 1367/2006 (hereafter ‘Regulation (EC) No 1367/2006’)³. In your initial request, registered on 5 June 2024 under reference EASE 2024/2975, you requested public access to, I quote: ‘copy of each Harmonised Standard⁴ developed by CEN, CENELEC and ETSI whose reference has been published in the Official Journal and which remains in force’ (hereafter ‘the requested documents’).

In your initial request, you referred to cases C-613/14⁵ and C-588/21 P⁶ and you stated that the Court of Justice ruled that there was an overriding public interest justifying the disclosure of the four harmonised standards at issue in case C-588/21 P. You argued that taking into consideration the characteristics and legal effect of harmonised standards, this overriding public interest applies to all harmonised standards. You considered that some of the documents requested contain environmental information in the sense of Regulation (EC) No 1367/2006. Regarding the format of the requested documents, you referred to Article 10 of Regulation (EC) No 1049/2001 and stated that your clients ‘specifically request an electronic copy of the Requested Documents in a format that is equivalent to the format through which the Union institutions make EU law generally available via the Eur-Lex service, for example as PDF or HTML files’ and indicated that ‘[i]n the alternative, the Commission should provide the Requested Documents in the same format in which they were received. The Commission should particularly take into account that it must provide the documents “in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference”’.

By letter of 16 July 2024 addressed to you, DG GROW, after observing that your application concerned a non-verifiable number of documents considering the large, temporal and broad scope of your request, invited you, pursuant to Article 6(3) of Regulation (EC) No 1049/2001, to confer with a view to finding a fair solution. It explained that such a fair solution could consist of narrowing down the scope of your request (i.e., the subject matter(s) and/or timeframe covered) to reduce it to a more manageable number of documents. DG GROW indicated that handling of your request would entail the following steps:

³ 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, OJ L 264, 25.9.2006, p. 13.

⁴ https://single-market-economy.ec.europa.eu/single-market/european-standards/harmonised-standards_en.

⁵ Judgment of the Court of Justice of 27 October 2016, *James Elliott Construction Limited v Irish Asphalt Limited*, request for a preliminary ruling from the Supreme Court (Ireland), C-613/14, EU:C:2016:821.

⁶ Judgment of the Court of Justice of 5 March 2024, *Public.Resource.Org, Inc. and Right to Know CLG v European Commission* (hereafter ‘*Public.Resource.Org, Inc. and Right to Know CLG v European Commission* judgment’), C-588/21 P, EU:C:2024:201.

- ‘Establishment of a complete list of the documents falling under the scope of your request;
- Retrieval of all identified document files and their processing for the purpose of your request;
- Assessment of the further procedural steps to undertake;
- (possibly) third-party consultations under Article 4(4) of Regulation (EC) No 1049/2001 and (possibly) a further dialogue with the third-party originators of documents falling within the scope of your request;
- Final assessment of the documents in light of the comments received, including of the possibility of granting (partial) access;
- Eventual redactions of the relevant parts falling under exceptions of Regulation (EC) No 1049/2001;
- Preparation of the draft reply;
- Finalisation of the reply at administrative level and formal approvals of the draft decision;
- Final check of the documents to be (partially) released (if applicable) (scanning of the redacted versions, administrative treatment, etc.) and dispatch of the reply’.

DG GROW estimated that your request concerned around 8000 document files. It concluded that according to its first estimates, a maximum of 15 to 20 harmonised standards could be handled within the extended deadline of 15 + 15 working days provided by Regulation (EC) No 1049/2001. DG GROW therefore asked you to specify the objective of your request, your specific interest in the documents requested, and to narrow down the scope of your request by providing an exact list of harmonised standards of interest to reduce it to a more manageable number. DG GROW invited you to reply to its proposal within five working days.

By letter of 23 July 2024, you submitted a confirmatory application, arguing that, by virtue of Article 7(4) of Regulation (EC) No 1049/2001, the failure by the Commission to make a decision within the statutory time limit gave rise to an implied decision on 17 July 2024 refusing the request for access to documents. In this application, you requested a confirmatory review of the implied refusal of 17 July 2024 and you also replied to the fair solution proposed by DG GROW. The Secretariat-General of the Commission registered your confirmatory application on 25 July 2024 and informed you that your request would be handled within 15 working days, until 16 August 2024. On 14 August 2024, the Secretariat-General informed you that, pursuant to Article 8(2) of Regulation (EC) No 1049/2001, this deadline would be extended for 15 working days, until 6 September 2024.

On 13 November 2024, you lodged an action for annulment⁷ against the Commission’s implied decision refusing access to the documents requested, which, according to you, arose on 6 September 2024.

⁷ *Public.Resource.Org, Inc. and Right to Know CLG v European Commission*, T-581/24.

Since then, on 8 January 2025⁸, the reply to your access to documents request was sent to you. In its reply, DG GROW explained that as processing your request would involve an unreasonable administrative burden, and since a mutually acceptable solution was not agreed upon, the scope of your request had been narrowed down to ‘documents for which you [had] manifested interest by submitting requests for access to the European Commission, and for which access had already been granted’.

DG GROW recalled that, in your initial request of 30 May 2024, registered under EASE 2024/2823, you had requested access to the following harmonised standards:

- ‘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,
- 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’.

Moreover, in your initial request of 29 July 2024, registered under EASE 2024/2943, you had requested public access to the harmonised standards listed below:

Legislation reference (A)	ESO (B)	Reference number of the standard (C)	Title of the standard (D)	Date of start of presumption of conformity (1)	OJ reference for publication in OJ (2)
765/2008	CEN	EN ISO 14001:2015	Environmental management systems - Requirements with guidance for use (ISO 14001:2015)	11/12/2015	OJ C 412 - 11/12/2015
765/2008	CEN	EN ISO 14004:2016	Environmental management systems - General guidelines on implementation (ISO 14004:2016)	10/06/2016	OJ C 209 - 10/06/2016
765/2008	CEN	EN ISO 14015:2010	Environmental management - Environmental assessment of sites and organizations (EASO) (ISO 14015:2001)	05/10/2011	OJ C 292 - 05/10/2011
765/2008	CEN	EN ISO 14020:2001	Environmental labels and declarations - General principles (ISO 14020:2000)	16/06/2009	OJ C 136 - 16/06/2009

⁸ Reference number Ares(2025)110309.

765/2008	CEN	EN ISO 14021:2016	Environmental labels and declarations - Self-declared environmental claims (Type II environmental labelling) (ISO 14021:2016)	12/08/2016	OJ C 293 - 12/08/2016
765/2008	CEN	EN ISO 14024:2018	Environmental labels and declarations - Type I environmental labelling - Principles and procedures (ISO 14024:2018)	15/06/2018	OJ C 209 - 15/06/2018
765/2008	CEN	EN ISO 14031:2013	Environmental management - Environmental performance evaluation - Guidelines (ISO 14031:2013)	28/11/2013	OJ C 348 - 28/11/2013
765/2008	CEN	EN ISO 14040:2006	Environmental management - Life cycle assessment - Principles and framework (ISO 14040:2006)	16/06/2009	OJ C 136 - 16/06/2009
765/2008	CEN	EN ISO 14044:2006, EN ISO 14044:2006/A1:2018	Environmental management - Life cycle assessment - Requirements and guidelines (ISO 14044:2006)	15/06/2018	OJ C 209 - 15/06/2018
765/2008	CEN	EN ISO 14050:2010	Environmental management - Vocabulary (ISO 14050:2009)	05/10/2011	OJ C 292 - 05/10/2011
765/2008	CEN	EN ISO 14063:2010	Environmental management - Environmental communication - Guidelines and examples (ISO 14063:2006)	05/10/2011	OJ C 292 - 05/10/2011
765/2008	CEN	EN ISO 14064-1:2019	Greenhouse gases - Part 1: Specification with guidance at the organization level for quantification and reporting of greenhouse gas emissions and removals (ISO 14064-1:2018)	04/12/2020	OJ L 408 - 04/12/2020
765/2008	CEN	EN ISO 14064-2:2019	Greenhouse gases - Part 2: Specification with guidance at the project level for quantification, monitoring and reporting of greenhouse gas emission reductions or removal enhancements (ISO 14064-2:2019)	04/12/2020	OJ L 408 - 04/12/2020
765/2008	CEN	EN ISO 14064-3:2019	Greenhouse gases - Part 3: Specification with guidance for the verification and validation of greenhouse gas statements (ISO 14064-3:2019)	04/12/2020	OJ L 408 - 04/12/2020

765/2008	CEN	EN ISO 14065:2013	Greenhouse gases - Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition (ISO 14065:2013)	07/09/2013	OJ C 258 - 07/09/2013
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DG GROW observed that, in replies to those requests, you were granted access to the above-referred standards on 10 July 2024⁹ (EASE 2024/2823) and 11 November 2024¹⁰ (EASE 2024/2943), respectively. DG GROW also informed you that in accordance with Article 7(2) of Regulation (EC) No 1049/2001, you were entitled to make a confirmatory application.

Against this background, by letter of 13 January 2025, the Secretariat-General informed you that, as an initial reply had been sent to you, it closed your confirmatory application related to the lack of initial reply. The Secretariat-General recalled that you were entitled to submit a new confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 if you wished to request a review of the reply of DG GROW of 8 January 2025.

Although you did not submit any new confirmatory application contesting the Commission's position set out in its reply of 8 January 2025, the Commission has decided on its own motion, in the interests of protecting the two-step review process foreseen by Regulation (EC) No 1049/2001, to review the initial decision taken by DG GROW on 8 January 2025 in line with the case-law of the Court of justice¹¹, by taking into account the arguments you developed in your confirmatory application of 25 July 2024, in which you also expressed your views on the fair solution proposal that had been proposed to you by DG GROW.

Regulation (EC) No 1049/2001 foresees a two-stage administrative procedure. This two-stage administrative procedure is established not only in the interests of the applicants, but also in the interests of the administration. By providing for such a procedure, the said regulation aims to achieve, first, the swift and straightforward processing of applications for access to documents of the institutions concerned and, second, as a priority, a friendly settlement of disputes which may arise. In so far as it provides for the submission of a confirmatory application, that procedure enables the institution concerned to re-examine its position before taking a definitive refusal decision that could be the subject of an action before the courts of the Union.

⁹ Reference Ares(2024)8212344.

¹⁰ Reference Ares(2025)917628.

¹¹ Judgment of the Court of Justice of 26 January 2010, *Internationaler Hilfsfonds v Commission*, C-362/08 P, EU:C:2010:40, paragraphs 53-54.

As recognised by case-law, such a procedure enables the institution to adopt a more detailed position before definitively refusing access to the documents sought by the applicant, in particular where the applicant reiterates the request for disclosure of those documents notwithstanding a reasoned refusal by that institution¹².

The arguments that you provided in support of your confirmatory request will be addressed in the sections below.

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 review of the reply given by the Directorate-General concerned at the initial stage.

In your confirmatory application, you reiterate your request for access to harmonised standards developed by the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), and the European Telecommunications Standards Institute (ETSI) by reference to Regulation (EC) No 1367/2006, Regulation (EC) No 1049/2001, and the judgment of the Court of Justice in Case C-588/21 P. You argue that harmonised standards related to the environment are considered ‘texts of Community legislation on the environment or relating to it’ in the sense of Article 4(2)(a) of Regulation (EC) No 1367/2006 and must ‘be made available and disseminated under Article 4(1) of that Regulation in databases equipped with search aids and other forms of software designed to assist the public in locating the information they require’.

Moreover, you request the documents, I quote, ‘as an electronic format equivalent to the format through which the Union institutions make EU law generally available via the Eur-lex service, for example as PDF or HTML files or alternatively in an existing version or format having full regard to our clients’ preference per Article 10(3) of Regulation 1049/2001’.

These two aspects of your request will be examined in turn.

2.1. Scope of your request

Article 6(3) of Regulation (EC) No 1049/2001 provides as follows:

‘In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.’

Pursuant to settled case-law, the proposal for a fair solution provided under Article 6(3) of Regulation (EC) No 1049/2001 can concern only the content or the number of documents applied for, but not the timeframe for dealing with the initial request.

¹² Ibid.

Regulation (EC) No 1049/2001 does not allow for the possibility of derogating from the time-limits laid down in Articles 7 and 8 thereof, as those time-limits are determinative as regards the conduct of the procedure for access to the documents held by the institutions concerned, which aim to achieve the swift and straightforward processing of applications for access to documents. It is therefore not possible for the Commission to handle and reply to requests by providing the documents requested in instalments, outside the statutory deadlines, even if this is done at the request or with the agreement of the applicant¹³.

Furthermore, it follows from the principle of proportionality that the institutions may, in particular cases, where the volume of documents to which access is requested or the volume of passages to be censured would entail an inappropriate administrative burden, balance, on the one hand, the interest in public access to documents and, on the other, the workload that would result from processing the request for access in order to safeguard the interest of a sound administration¹⁴.

Against this background, an institution may derogate from the obligation to examine a request for access to documents specifically and individually only where the following three cumulative conditions are satisfied: (1) the workload involved in the concrete, individual review of the requested documents must be unreasonable; (2) the institution must have attempted to consult with the requester; and (3) the institution must have specifically considered alternative solutions to a concrete, individual examination of the documents requested and must have come to the conclusion that those various options would be less favourable to the applicant or would also involve an unreasonable workload¹⁵.

In the context of its review, the Secretariat-General has carried out an assessment of the workload required to handle your application, including the identification of all documents falling under its original scope.

To recall, DG GROW, in its proposal of 16 July 2024, explained to you that the original scope of your initial application covers a significant number of documents and offered you a fair solution, inviting you to specify the exact list of harmonised standards of interest.

In your reply, you did not express your interest in any particular topic or areas for harmonised standards, but, on the contrary, insisted that your request was not broad in scope and that it would not entail an unreasonable amount of administrative work.

¹³ See *inter alia*, Judgments of 2 October 2014, *Strack v Commission* (hereafter ‘*Strack v the European Commission* judgment’), C-127/13, EU:C:2014:2250, paragraphs 26-28 and of 23 September 2020, *Basaglia v European Commission*, T-727/19, EU:T:2020:446, paragraph 38.

¹⁴ See judgments of 6 December 2001, *Council v Hautala*, C-353/99 P, EU:C:2001:661, paragraph 30, and of 2 October 2014, *Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 27.

¹⁵ See judgments of 14 December 2017, *Evropaïki Dynamiki v Parliament*, T-136/15, EU:T:2017:915, paragraph 83; and of 15 March 2023, *Basaglia v European Commission*, T-597/21, EU:T:2023:133, paragraph 57.

The renewed search of the documents falling under the scope of your request confirms that it has a very broad scope, as it concerns more than 4500 harmonised standards:

- As regards harmonised standards adopted by the European standardisation organisations CEN and CENELEC, the Commission estimates that there are approximately 3210 harmonised standards, amongst which approximately 1170 harmonised standards are based on ISO/IEC standards.
- The Commission has also identified around 160 harmonised standards adopted by the European Telecommunications Standards Institute (ETSI).

As explained in the initial decision of DG GROW, and for the reasons that will be further detailed below, the Secretariat-General must conclude that your request is wide in scope and cannot be handled within the time limits laid down in Regulation (EC) No 1049/2001.

Following your confirmatory application and considering that you did not express your interest in a concrete list of harmonised standards, nor did you agree with reducing the scope of the request to a more manageable number of documents, the Commission has no choice but to unilaterally restrict the scope of the request.

Against this background, the Commission hereby grants you full access to:

- approximately 180 standards from CEN and CENELEC, including the four harmonised standards that the Commission disclosed to you as per your request registered under EASE 2024/2823 and the 15 harmonised standards that the Commission disclosed to you in the framework of your request registered under EASE 2024/2943; and
- approximately 160 harmonised standards adopted by ETSI.

As regards harmonised standards adopted by the European standardisation organisations CEN and CENELEC, you may retrieve the approximately 180 harmonised standards via the national readability platforms. The standards are fully accessible under read-only format via the following link:

<https://harmonized.standards.eu/>.

Please note that the number of standards available via the readability platforms is regularly updated with the view to ensuring that all harmonised standards are made available for their public consultation.

As regards the 15 EN ISO and EN IEC standards that the Commission disclosed to you as per your request under reference EASE 2024/2943, to facilitate public access to harmonised standards, the Commission has set out a platform where they can be retrieved via an EU login account. This page gives personal access to a readability platform concerning read-only access to harmonised standards which are fully disclosed according to Regulation (EC) No 1049/2001 based on individual requests.

The readability platform allows any person to access the harmonised standards concerned free of charge. They can be retrieved via the following link, after logging in with your EU Login account:

https://ec.europa.eu/growth/tools-databases/enorm/access_to_harmonised_standards.

Moreover, in its recent judgment in Case T-127/23, the General Court expressly acknowledged that the institution may provide partial access by providing the link to the non-confidential versions of the documents requested¹⁶. The Secretariat-General considers that these findings apply *mutatis mutandis* to the case at hand.

As regards the harmonised standards adopted by ETSI, these harmonised standards are available for free on the publicly accessible ETSI website. You may retrieve them in the following link¹⁷:

https://single-market-economy.ec.europa.eu/single-market/european-standards/harmonised-standards/access-documents_en.

By providing you with the links to the publicly available versions of the documents, the Commission considers that it has satisfied the part of your request concerning harmonised standards originating from CEN/CENELEC and ETSI. Indeed, Article 10(2) of Regulation (EC) No 1049/2001 provides that ‘[i]f a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document’.

As regards your argument that harmonised standards related to the environment are considered ‘texts of Community legislation on the environment or relating to it’ in the sense of Article 4(2)(a) of Regulation (EC) No 1367/2006 and must ‘be made available and disseminated under Article 4(1) of that Regulation in databases equipped with search aids and other forms of software designed to assist the public in locating the information they require’, as the Commission explained in reply to your request under reference EASE 2024/2943¹⁸, Regulation (EC) No 1367/2006 sets out the basic terms and conditions for the exercise of the right of public access to environmental information (Article 1). It expressly provides that Regulation (EC) No 1049/2001 shall apply to any request by an applicant for access to environmental information held by the EU institutions and bodies (Article 3).

Therefore, it does not establish a separate system of public access to documents that would derogate from the general system put in place by Regulation (EC) No 1049/2001 in cases where certain specific types of information are concerned.

¹⁶ Judgment of the General Court of 22 January 2025, *eClear v Commission*, T-127/23, EU:T:2025:51, paragraph 98.

¹⁷ They can be retrieved as well in ETSI’s website:
<https://www.etsi.org/standards#Pre-defined%20Collections>.

¹⁸ Confirmatory decision of 6 February 2025, reference Ares(2025)917628.

The provisions regarding the application of exceptions to the requests for access to environmental information are governed by Article 6 of the Aarhus Regulation. As Regulation (EC) No 1049/2001 and the Aarhus Regulation belong to the same hierarchical level in the EU legislative order, no provision expressly gives one regulation priority over the other. In such cases, as confirmed on many occasions by the case-law of the EU Courts, both pieces of legislation should be applied in a way ensuring conformity with each other¹⁹.

In your confirmatory application, you did not clarify the concrete standards that you would be interested in, nor which standards would contain in your view environmental information. Given the large number of documents concerned by your application and for the reasons that will be detailed below, the Commission considers that the unilateral restriction of the scope of your request, performed under Regulation (EC) No 1049/2001 and the relevant case-law²⁰, is not in breach of the Aarhus Regulation.

Moreover, by making the standards concerned by this decision accessible using the Commission readability platform, the Commission considers that it has ensured that any environmental information reflected in the documents hereby disclosed, in particular any information that might be related to emissions into the environment, has been made available to the public, and has applied Regulation (EC) No 1049/2001 and the Aarhus Regulation in a way that ensures conformity with each other.

While at this confirmatory stage the Secretariat-General disclosed more documents than initially foreseen in its proposal for a fair solution sent to you by DG GROW on 16 July 2024, and while it trusts that this solution could now be acceptable to you, in the interests of safeguarding the two-step review process provided for by Regulation (EC) No 1049/2001, it also examined the unilateral restriction of the scope of your request in light of the arguments you put forward in your reply to the fair solution proposed to you by DG GROW on 16 July 2024.

At the outset, regarding your contention that the proposal for a fair solution was not sent in a timely manner and was ‘ineffective’ given the implied decision of 17 July 2024 refusing access to the documents requested, the Secretariat-General observes that, as indicated by DG GROW in its email of 16 July 2024, your request concerned a ‘non-verifiable amount of documents’ and was not formulated in a sufficiently precise manner enabling the Commission to identify the documents, as required by Article 6(1) of Regulation (EC) No 1049/2001. Had you agreed to confer informally to find a fair solution, DG GROW would have been able to reply more quickly to your request.

¹⁹ In this regard, see judgment of the Court of Justice of 29 June 2010, *European Commission v The Bavarian Lager Co. Ltd*, C-28/08 P, EU:C:2010:378, paragraph 56.

²⁰ See judgments of 14 December 2017, *Evropaiki Dynamiki v Parliament*, T-136/15, EU:T:2017:915, paragraph 83; and of 15 March 2023, *Basaglia v European Commission*, T-597/21, EU:T:2023:133, paragraph 57.

Besides, once an initial decision had been adopted, the Secretariat-General also informed you of the possibility to request a review of the initial reply of 8 January 2025 by submitting a new confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001.

Your arguments can be summarised as follows:

- As the Court of Justice in its judgment in C-588/21 P held that there is an overriding public interest in granting access to the harmonised standards concerned by that judgment regardless of their content, a concrete, individual assessment is not required in this case and the documents should be fully disclosed. For this same reason, it is not necessary to consult third parties under Article 4(4) of Regulation (EC) No 1049/2001 nor to consider whether partial disclosure is required in accordance with Article 4(6) of the same regulation.
- The material and temporal scope of the request was not broad. The request was ‘well defined’ as the request explicitly referred to the list of harmonised standards published by the Commission²¹. The retrieval of the documents ‘should be straightforward’ as ‘a complete list of the requested documents should already exist’. Likewise, the temporal scope of the request was narrow as it was ‘limited only to those Harmonised Standards whose reference was published in the Official Journal and which remain in force’.
- The Commission did not demonstrate that the work required to reply to your request is unreasonable or disproportionate. You argue that, I quote, ‘the Commission has not provided a concrete estimate of the work involved and has included many steps which (a) are unnecessary; and which (b) it would have to carry out regardless of the scope of the request’. You state that ‘the Commission hasn’t genuinely investigated all other conceivable options’.
- The Commission could make the documents requested available on the registers envisaged by Article 11 of Regulation (EC) No 1049/2001 and Article 4(1) of Regulation (EC) No 1367/2006. Alternatively, pursuant to Article 13(3) of Regulation (EC) No 1049/2001, the Commission may establish rules providing for publication of the text of harmonised standards in the Official Journal.
- You note that the interest in requesting access to the documents is based on the overriding public interest in having free and open access to the law, as identified by the Court of Justice in its ruling in Case C-588/21 P.
- Finally, you state that ‘there may be some administrative burden in disclosing the Requested Documents (although not such that it would be unreasonable or disproportionate) and therefore [your clients] would be open to agreeing a timetable for disclosure of [all] the Requested Documents over a reasonable

²¹ https://single-market-economy.ec.europa.eu/single-market/european-standards/harmonised-standards_en.

timeframe. However, any such proposal would depend on a final decision of the Commission granting the request in full in the format requested’.

As a preliminary remark, the Commission notes that the outcome of the assessment of harmonised standards in view of the findings of the Court in Case C-588/21 P does not automatically render it possible to assess and process your request, as initially requested in terms of its material and temporal scope, within the time limits laid down in Regulation (EC) No 1049/2001. Please note that the standardisation framework is complex and involves, in addition to DG GROW, other Commission services responsible for sectorial legislation that need to be consulted.

Indeed, the disclosure of the harmonised standards requested would involve the handling of each harmonised standard in consultation with the service concerned.

For example, as regards EN ISO and EN IEC standards, each file must be handled individually. A desk officer working full time on your request would be able to upload a maximum of seven harmonised standards in the Commission’s platform in one working day due to the necessary merging, identifying, retrieving, uploading and other administrative tasks such as redacting personal data. Consequently, in the situation at hand, it would take one staff member working full time on this particular case approximately five months to upload all 1170 EN ISO and EN IEC harmonised standards. Therefore, the timeline to process harmonised standards that are based on ISO/IEC standards already exceeds the time-limit set in Regulation (EC) No 1049/2001 to handle a request for access to documents. The Commission would still need to handle your request as far as the remaining (CEN and CENELEC) harmonised standards is concerned.

Similarly, for CEN and CENELEC harmonised standards, the Commission services would need to verify the completeness and availability of the approximately 2040 harmonised standards that originate from these organisations, taking into consideration the available languages. In this regard, while the scope your request covers more than 4500 harmonised standards in English, your request may concern a total of around 8000 files taking into consideration other available languages. The Secretariat-General notes that neither in your initial request, nor in your confirmatory application, did you indicate the language in which you were requesting the documents. In the absence of such clarification, Secretariat-General assumes that you are interested in the English version.

Even if the Commission granted you access to CEN and CENELEC harmonised standards via the Commission’s own platform, the processing of your request would also exceed the time-limit set in Regulation (EC) No 1049/2001 to handle a request for access to documents. In one working day, the Commission estimates that a staff member working on a full basis on your request would be able to handle and upload 10 standards after identifying, retrieving, uploading and possibly merging the correct files and possibly redacting the personal data. In one week, it would be possible to handle 50 standards, and 200 standards in four weeks. It would take around 11 months to upload the approximately 2040 harmonised standards.

Consequently, in the Commission's view, it is not possible to handle a request for access to documents under Regulation (EC) No 1049/2001 covering more than 4500 harmonised standards, as the assessment of the said documentation requires processing a significant number of documents for the sole benefit of one applicant. The disclosure of all the harmonised standards requested would be materially impossible within the statutory deadlines.

In its judgment in case C-588/21 P, the Court held that 'free access must in particular enable any person whom legislation seeks to protect to verify, within the limits permitted by law, that the persons to whom the rules laid down by that law are addressed actually comply with those rules' (emphasis added)²². Therefore, the Commission must disclose harmonised standards based on the interest of applicants to verify that the legislation complies with the harmonised rules, while taking into account the limits of disclosure permitted by law.

As the Commission informed you in your request with reference EASE 2024/2943, the third parties from which the documents originate have claimed copyright concerning the standards that you requested on behalf of your clients. Indeed, CEN clarified upon transmission of the documents to the Commission that the rights of exploitation of the documents are reserved for CEN national members. Furthermore, original ISO documents were marked as 'Copyright protected document' and contain a copyright statement²³.

As observed by the Court (see paragraph 27), the General Court had held, in paragraphs 47 and 48 of its judgment, that the Commission was entitled, without committing any error, to find that the threshold of originality to constitute a 'work', for the purposes of the case-law, and accordingly to be eligible for that protection, had been met in the case at hand so far as concerns the harmonised standards in question. Despite being invited by the appellants to assess the copyright protection of harmonised standards and to conclude on the absence of such protection, the Court did not examine this ground of appeal (see paragraphs 50, 51 and 87 of the decision).

It is important to recall that the right of access to documents drawn up or held by the EU institutions is not unconditional nor unlimited. Article 2(1) of Regulation (EC) No 1049/2001 provides that '[a]ny citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation'.

²² *Public.Resource.Org, Inc. and Right to Know CLG v European Commission* judgment'), quoted above, paragraph 81.

²³ The copyright statement reads as follows: 'All rights reserved. Unless otherwise specified, no part of this publication may be reproduced or utilized otherwise in any form or by any means, electronic or mechanical, including photocopying, or posting on the internet or an intranet, without prior written permission [...]'.

Against this background, the Commission has developed a disclosure mechanism under read-only format that allows to take into account the limits of disclosure permitted by law. In the Commission's view, this disclosure mechanism strikes the right balance between transparency of harmonised standards and the rights of third parties. Indeed, the Commission must apply Regulation (EC) No 1049/2001 in a way that is consistent with the rules on intellectual property. Article 16 of Regulation (EC) No 1049/2001 ('Reproduction of documents') provides that '[t]his Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents'.

Therefore, and based on Article 16 of Regulation (EC) No 1049/2001, the Commission hereby discloses the documents covered by your request as restricted unilaterally by the Commission in a way that ensures the transparency of the standards requested while preventing their unauthorised reproduction or exploitation.

Please note that even if the Commission could provide you with the more than 4500 harmonised standards requested in unrestricted format without undermining the interests of the third-party originators, *quod non*, it would not be possible to disclose all the harmonised standards within the time limits provided for in Regulation (EC) No 1049/2001. Whilst it is generally known which standards are harmonised, the Commission would need to identify and process the correct file, sanitise the document in question removing metadata and hidden personal data, potentially merging and reducing the size of the document(s) concerned and, considering the large number of documents covered by your request, potentially finding a viable (electronic or non-electronic) solution to transmit such volume of documents.

The Commission estimates that a staff member working full time on your request could prepare the final version (identification of the correct files potentially after consultation with other Commission services, preparing the document by means of dedicated informatic tools: removal of hidden metadata, reducing the size of the file for its electronic transmission, uploading the documents in the Commission's system for the handling of requests for public access to documents, dispatching the documents, etc.) of approximately 24 documents per working day. Then, the final reply and the whole file is put into the validation process in view of its approval. This part of the process adds five working days to the over time of the handling. The handling of your request would take, as a minimum, 192 and half days of active full-time employment. This estimate clearly corresponds to a wide scope request.

Finally, as regards your suggestion to agree on a timetable for the disclosure of all the harmonised standard requested 'over a reasonable timeframe', it needs to be reminded that the Court of Justice has found that the statutory time-limits provided for in Regulation (EC) No 1049/2001 precludes the possibility of assessing the documents falling under the scope of the application in batches, as you suggested²⁴.

²⁴ *Strack v the European Commission* judgment, quoted above, C-127/13 P, paragraphs 26-28.

In its judgment in case T-727/19, the General Court acknowledged that the European Commission was right in seeking a solution that would, in principle, restrict the scope of the application to provide a reply and to refuse to release the documents requested in batches (as you suggested)²⁵.

2.2. Format of the documents disclosed

In your confirmatory application of 25 July 2024, you referred to Article 10 of Regulation (EC) No 1049/2001 and stated that, I quote, your clients ‘specifically request an electronic copy of the Requested Documents in a format that is equivalent to the format through which the Union institutions make EU law generally available via the Eur-Lex service, for example as PDF or HTML files’. You indicated that ‘[i]n the alternative, the Commission should provide the Requested Documents in the same format in which they were received. The Commission should particularly take into account that it must provide the documents “in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference”’.

Please note that documents that originate from third parties are disclosed to you in accordance with Regulation (EC) No 1049/2001. However, this disclosure does not affect the rules on intellectual property, which restrict their reproduction, i.e. the copying or making of copies in any form, communicating the documents by sending or forwarding them to others, and use of the documents without the agreement of the third party who may hold intellectual property rights including copyright in the documents. The European Commission does not assume any responsibility for any act by you that would require the agreement of the holder of the any intellectual property right in the documents. The documents are being disclosed to you on a read only basis. By accessing the standards provided, you agree not to circumvent the technical features implemented by the European Commission, which include preventing forwarding, downloading, and printing. Any attempt to bypass these restrictions may infringe copyright. You are solely responsible for any acts that may infringe the rights of third parties, including copyright. EU law applies to this disclaimer.

As you were informed in your request with reference EASE 2024/2943²⁶, the Commission received the documents with CEN with watermarks on each page ‘Copyright CEN. USE ONLY FOR INTERNAL AND INFORMATION PURPOSES’, and a text ‘DO NOT COPY’ on each page. Moreover, original standards from ISO have the following watermarks on each page: ‘Copyright ISO – licensed to CEN for limited distribution and restricted use to European Commission [...]’. Although the files received from CEN are in pdf format, these are protected by password and limited permissions, including the restriction of content copying in certain files.

²⁵ *Giorgio Basaglia v European Commission* judgment, quoted above, T-727/19, paragraph 47.

²⁶ Confirmatory decision of 6 February 2025, reference Ares(2025)917628.

The Commission does not possess the password in question and did not add any password protection to the documents. The standards received from CENELEC based on IEC standards also have a watermark.

Therefore, the Commission cannot grant you access to the documents with the technical features removed nor can it provide any password that the author of the standards may have included, as they are not known to the institution. The Commission cannot grant you access to the documents requested without the watermarks inserted by the standardisation organisations, as the Commission received them in this format.

Consequently, the Commission considers that it has also satisfied your request for access to the above-referred harmonised standards ‘in an existing version and format’.

3. MEANS OF REDRESS

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European 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 Commission
Ilze JUHANSONE
Secretary-General

