



EUROPEAN COMMISSION

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**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 COMMISSION<sup>1</sup>**

**Subject: Your confirmatory application for access to documents under  
Regulation (EC) No 1049/2001 – EASE 2024/2943**

Dear Sir,

I refer to your letter of 13 November 2024, registered on 15 November 2024, in which you submit, on behalf of your clients<sup>2</sup>, a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>3</sup> (hereafter ‘Regulation (EC) No 1049/2001’).

**1. SCOPE OF YOUR REQUEST**

On 31 May 2024, you submitted an initial application for access to documents under Regulation (EC) No 1049/2001 and Regulation (EC) No 1367/2006<sup>4</sup>, in which you requested public access to the standards listed below:

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<sup>1</sup> 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>).

<sup>2</sup> ‘Public.Resource.Org’ and ‘Right to Know CLG’.

<sup>3</sup> OJ L 145 of 31 May 2001, p. 43.

<sup>4</sup> 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.

<b>Legislation reference (A)</b>	<b>ESO (B)</b>	<b>Reference number of the standard (C)</b>	<b>Title of the standard (D)</b>	<b>Date of start of presumption of conformity (1)</b>	<b>OJ reference for publication in OJ (2)</b>
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 14015:2010)	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
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

Your initial request was handled by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (hereafter ‘DG GROW’). As you did not receive an initial reply within the statutory time limits, you submitted a confirmatory application on 29 July 2024.

In the meantime, DG GROW provided you with its initial reply on 13 November 2024<sup>5</sup>, informing you that the documents covered by your request may be obtained, after logging in with your EU Login account, via the following link:

[https://ec.europa.eu/growth/tools-databases/enorm/access\\_to\\_harmonised\\_standards](https://ec.europa.eu/growth/tools-databases/enorm/access_to_harmonised_standards)

As regards EN ISO 14020:2001 (‘Environmental labels and declarations - General principles’), DG GROW informed you that the Commission only holds an English cover and foreword of this standard, but it does not hold a full English version.

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<sup>5</sup> Reference number Ares(2024)8048250.

Indeed, EN ISO 14020:2001 precedes the creation of the standards database (2007-2008). When the database was established, the Commission did not receive all standards that preceded the creation of the database, especially if the standard in question (including harmonised standards) was already withdrawn when the database was deployed.

Moreover, in the beginning, ISO texts were not included consistently for EN ISO standards in all language versions and thus the Commission holds the document in German language version.

Therefore, upon further research, the Commission can confirm that it holds a German version of this standard. The standard may be obtained, after logging in with your EU Login account, via the following link:

[https://ec.europa.eu/growth/tools-databases/enorm/access\\_to\\_harmonised\\_standards](https://ec.europa.eu/growth/tools-databases/enorm/access_to_harmonised_standards).

DG GROW, in its initial reply on 13 November 2024, underlined that, I quote:

‘Please note that documents which 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 which 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’.

On the same day, following receipt of the initial reply, you submitted a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001, contesting the assessment of DG GROW in its reply of 13 November 2024.

Against this background, the Secretariat-General of the Commission registered your new confirmatory request on 15 November 2024. The arguments that you provide 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 consider that the Commission is in breach of Article 10 of Regulation (EC) No 1049/2001. You stress that your clients requested an

electronic copy of the documents, I quote, ‘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 also stated 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”.

In particular, you would like the Commission ‘to provide copies of the requested documents with the technical features removed or alternatively to provide the password which would allow them to be removed’.

The documents requested originate from the International Organization for Standardization (ISO) and the European Committee for Standardization (CEN). The Commission received the documents 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. The Commission does not possess the password in question and did not add any password protection to the documents.

Therefore, the Commission cannot grant you access to the documents with the technical features removed nor can it provide the password of the author, which is not known to the institution. The Commission cannot grant you access to the documents requested without watermarks, as they were received from CEN in this format. Moreover, the institution does not possess any version of these standards without watermarks.

The Court has held that the right of access to documents of the institutions applies only to existing documents in the possession of the institution concerned. Therefore, Regulation (EC) No 1049/2001 cannot be relied upon to oblige an institution to create a document<sup>6</sup>.

The initial reply of DG GROW, dated 13 November 2024, ensured free and full access to the standards that you requested by providing you with a link where a complete version of the standards requested may be accessed after logging in with your EU Login account.

In your confirmatory application of 15 November 2024, you state that, I quote, ‘neither our clients nor anyone else agrees to any terms or conditions which the Commission seeks to impose or infer, nor can any such agreement be implied. In fact, it is impermissible under Regulation (EC) 1049/2001 for the Commission to seek to grant conditional access to documents’.

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<sup>6</sup> Judgment of 11 January 2017, *Typke v Commission*, C-491/15 P, EU:C:2017:5, paragraph 31.

The Commission notes 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'.

As for the technical specificities under which the standards requested are accessible via the link that has been provided to you, these are meant to strike 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'.

The third parties from which the documents originate have claimed copyright concerning the standards that you requested on behalf of your clients. In addition to the watermarks referred to above, 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 statement<sup>7</sup>.

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).

Therefore, and based on Article 16 of Regulation (EC) No 1049/2001, the Commission disclosed the documents requested in a way that ensures the transparency of the standards requested while preventing their unauthorised reproduction or exploitation.

In your initial request for public access of 31 May 2024, registered on 4 June 2024, you considered that the documents requested contain environmental information in the sense of Article 2(1)(d)(i) and (ii) of Regulation (EC) No 1367/2006. You argue that the documents requested concern 'harmonised standards applicable to Environmental Management and to Greenhouse Gases, with the latter consisting of information relating to emissions into the environment'.

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<sup>7</sup> 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 [...]'.

Regulation (EC) No 1367/2006 ('the Aarhus Regulation') 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. 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 other<sup>8</sup>.

As regards the documents requested, the Commission has conducted an assessment of their possible disclosure, according to the case-law. By making the standards requested accessible using the Commission Platform, the Commission considers that it has ensured that any environmental information reflected in the documents, 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 the conformity with each other,

Furthermore, you refer to Articles 4(1) and 4(2) of Regulation (EC) No 1367/2006 and you state that the documents requested 'are to be made available and disseminated' 'in electronic databases "that are easily accessible to the public through public telecommunication networks" where the databases should be equipped "with search aids and other forms of software designed to assist the public in locating the information they require"'.

The Commission has set out a platform where harmonised standards 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 disclosed according to Regulation (EC) No 1049/2001 and based on individual requests. The readability platform allows any person to access the harmonised standards concerned free of charge.

Considering the above, the Commission confirms the initial decision of DG GROW to grant access to the documents that form the subject-matter of your application EASE 2024/2943 via the following link, after logging in with your EU Login account:

[https://ec.europa.eu/growth/tools-databases/enorm/access\\_to\\_harmonised\\_standards](https://ec.europa.eu/growth/tools-databases/enorm/access_to_harmonised_standards).

Finally, 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

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<sup>8</sup> In this regard, see judgment of the Court of Justice of 29 June 2010, *European Commission v The Babarian Lager Co. Ltd*, C-28/08 P, EU:C:2010:378, paragraph 56.

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 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.

### **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*

