



C/2025/919

17.2.2025

**Action brought on 6 December 2024 – International Electrotechnical Commission and ISO v
Commission**

(Case T-631/24)

(C/2025/919)

Language of the case: English

Parties

Applicants: International Electrotechnical Commission (Geneva, Switzerland), International Organization for Standardization (ISO) (Vernier, Switzerland) (represented by: M. Petite and M. Montaña Mora, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- Annul the Commission's decision of 27 September 2024 to grant access to International Standards belonging to IEC and ISO, in response to requests made under Regulation (EC) 1049/2001; ⁽¹⁾ and
- Order the European Commission to pay its own costs and those of the applicants pursuant to Article 134 of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging errors of law and manifest errors of assessment and lack of reasoning in the application of Article 4 of Regulation (EC) No 1049/2001, as follows:
 - First ground: The scope of the judgment in Case C-588/21 P ('the Judgment') ⁽²⁾ was limited to EU Harmonised Standards. The Judgment did not address, or even consider, whether there was an overriding public interest in favour of disclosing International Standards, in response to requests for access to documents made under Regulation (EC) 1049/2001 ('Access Requests'). Nevertheless, the Commission has not carried out any assessment as to the existence of an overriding public interest in relation to the disclosure of International Standards (as opposed to Harmonised Standards) in response to any Access Requests, where the issues at play and balance of interests are significantly different.
 - Second ground: There is no overriding public interest within the meaning of Article 4(2) of Regulation (EC) 1049/2001 in favour of the disclosure of IEC and ISO International Standards, which will seriously undermine the commercial interests and the valuable intellectual property of IEC and ISO. The Commission should refuse, and should have refused, Access Requests relating to the disclosure of IEC and ISO International Standards.
 - Third ground: The Commission is obliged to interpret all secondary legislation, including Regulation (EC) 1049/2001, in conformity with the EU's international Treaty obligations. However, by the contested decision, the Commission failed to apply Article 4 of Regulation (EC) 1049/2001 in light of the wording and purpose of either (i) the World Trade Organization (WTO) Agreement on Trade-related Aspects of Intellectual Property ('TRIPS Agreement') or (ii) the WTO Agreement on Technical Barriers to Trade ('TBT Agreement'), leading the contested decision into illegality.
 - Fourth ground: The Judgment did not address, or even consider, whether disclosure of International Standards would undermine the protection of the public interest as regards international relations. The Commission has not carried out any assessment as to the effect of the disclosure of International Standards on such public interest.

⁽¹⁾ 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 (OJ 2001 L 145, p. 43).

⁽²⁾ C-588/21 P, Public.Resource.Org and Right to Know v Commission and Others, judgment of 5 March 2024 (EU:C:2024:201).

- Fifth ground: IEC and ISO International Standards are a fundamental pillar of the TBT Agreement (see Annex A.5 to the application). The TBT Agreement considers IEC and ISO standards key for reducing technical barriers to trade, and its Annex 3 entrusts IEC and ISO with tasks that include acting as depositary of notifications relating to the Code of Good Practice for the Preparation, Adoption and Application of Standards, tasks that WTO members do not expect IEC and ISO to carry out for free. The contested decision has infringed Article 4(1) of Regulation (EC) 1049/2001, which obliges institutions to refuse access to a document where disclosure would undermine the protection of international relations. The Commission should refuse, and should have refused, Access Requests relating to the disclosure of IEC and ISO International Standards as to do so would undermine the public interest as regards international relations.
2. Second plea in law, alleging infringement of the Treaties or any rule of law relating to their application, in the following respects:
- First ground: By making copies of and/or communicating the applicants' copyright works to the public, without their permission, for the purposes of responding to Access Requests, the Commission has deprived the applicants of their intellectual property and has failed to afford sufficient protection to the applicants' intellectual property, and is therefore in breach of its obligations under Article 17 of the Charter of Fundamental Rights of the European Union ('the Charter').
 - Second ground: Irrespective of whether there was an overriding public interest in disclosure of International Standards, the Commission has failed to provide fair compensation in good time under Article 17 of the Charter in return for its deprivation of the applicants' intellectual property.
 - Third ground: The Commission has acted in breach of the principle of proportionality as laid down in Article 5 of the Treaty on European Union by (i) determining to disclose standards well beyond the scope of the Judgment; and (ii) irrespective of whether it was correct to disclose International Standards, determining to disclose those standards to any requesting party globally, irrespective of whether a requesting party is itself subject to EU law, causing much greater damage than necessary to the commercial interests of the affected International Standardisation bodies.
3. Third plea in law, alleging infringement of essential procedural requirements, as follows:
- First ground: Article 4(4) of Regulation (EC) 1049/2001 requires an institution to consult with third parties with a view to assessing whether the exceptions in Article 4(1) or 4(2) thereof apply to a requested document, unless it is clear that the document shall or shall not be disclosed. Given that the Judgment did not address, or even consider, the disclosure of International Standards in response to Access Requests, it is certainly not clear that IEC and ISO International Standards should be disclosed; on the contrary, the applicants consider it clear that IEC and ISO International Standards should not be disclosed. The Commission is therefore in breach of the said Article 4(4) by failing to consult IEC and ISO.
 - Second ground: The Commission failed to carry out the assessment described in paragraph 13.1(a) of the application as to the existence of an overriding public interest in relation to the disclosure of International Standards (as opposed to Harmonised Standards) in response to any Access Requests.
 - Third ground: The Commission failed to carry out the assessment described in in paragraph 13.1(e) of the application as to whether the disclosure of International Standards would undermine the protection of the public interest as regards international relations.