



Reports of Cases

Case C-60/15 P

Saint-Gobain Glass Deutschland GmbH
v
European Commission

(Appeal — Right of access to documents held by EU institutions — Regulation (EC) No 1049/2001 — Exceptions to the right of access — Article 4(3), first subparagraph — Protection of the decision-making process of those institutions — Environment — Aarhus Convention — Regulation (EC) No 1367/2006 — Article 6(1) — Public interest in the disclosure of environmental information — Information communicated by the German authorities to the European Commission pertaining to installations situated on German territory and concerned by the Union legislation on the scheme for greenhouse gas emission allowance trading — Partial refusal of access)

Summary — Judgment of the Court (Fifth Chamber), 13 July 2017

1. *Appeal — Grounds — Ground submitted for the first time in the context of the appeal — Inadmissibility — Arguments consisting in simply an amplification of a ground set out in the application — Admissibility*

(Rules of Procedure of the Court of Justice, Art. 170(1))

2. *EU institutions — Right of public access to documents — Regulation No 1049/2001 — Request for access concerning environmental information — Regulation No 1367/2006 — Exceptions to the right of access to documents — Protection of the decision-making process — Conditions — Strict interpretation and application — Distinction between the concepts of ‘decision-making process’ and ‘relevant administrative procedure’*

(European Parliament and Council Regulation No 1049/2001, Recital 11 and Art. 4, and No 1367/2006, Art. 6)

3. *EU institutions — Right of public access to documents — Regulation No 1049/2001 — Scope — Commission’s administrative activities — Included*

(European Parliament and Council Regulation No 1049/2001, Art. 2(3))

1. See the text of the decision.

(see paras 49-55)

2. The right of access to documents of the institutions conferred on the public by Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents is subject to certain limitations based on grounds of public or private interest. In particular, and in reflection of recital 11 in the preamble thereto, Article 4 of Regulation No 1049/2001 sets out a series of exceptions allowing the institutions to refuse access to a document where its disclosure would

undermine the protection of one of the interests protected by that provision. Nevertheless, as such exceptions depart from the principle of the widest possible public access to documents, they must be interpreted and applied strictly.

Thus, the concept of ‘decision-making process’ referred to in the first subparagraph of Article 4(3) of Regulation No 1049/2001 must be construed as relating to decision-making, without covering the entire administrative procedure which led to the decision. That interpretation follows from the very wording of the provision and addresses the requirement of strict interpretation.

Regarding the right of access to environmental information held by the institutions and bodies of the European Union, that interpretation of the first subparagraph of Article 4(3) of Regulation No 1049/2001 is also compelling in the light of the purpose of Regulation No 1367/2006 concerning the application of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters to the institutions and bodies of the European Union. It is true that Article 6 of Regulation No 1367/2006 merely states that the exception laid down in the first subparagraph of Article 4(3) of Regulation No 1049/2001 must be interpreted in a restrictive way, without elaborating on the concept of ‘decision-making process’ within the meaning of that provision. However, Article 4(4)(a) of the Aarhus Convention provides that a request for environmental information may be refused where disclosure of that information would adversely affect the confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law, and not the entire administrative procedure at the end of which those authorities hold their proceedings.

(see paras 62-64, 76-81)

3. Although the administrative activity of the Commission does not require as extensive an access to documents as that concerning the legislative activity of a Union institution, that does not in any way mean that such an activity falls outside the scope of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents which, as provided in Article 2(3) thereof, applies to all documents held by an institution, that is to say drawn up or received by it and in its possession, in all areas of Union activity.

(see para. 85)