Subject: Your request for Access to Documents - Fair Solution Proposal.

Dear Mr Karolak,

We refer to your request of 26 December 2023 registered on 3 January 2024 under the reference 2024/0024, by which you request access to the written submissions filed by the parties listed in your request in Cases C-284/16, Achmea, C-109/20, PL Holdings and C-741/19, Republic of Moldova.

You request that these documents are sent to you in English, or that where English version is unavailable, that they are sent in the original language version, together with the French version.

In this respect, as a preliminary remark please note that the Commission do not hold an English translation of the requested documents, only the original versions and their French translations.

Documents concerned, assessment of documents and consultation of third parties

The Legal Service has established a list of the documents concerned by your request. The total number of documents requested is 26 (taking in account the 2 requested language versions of the documents), the majority of which originate from third parties, while the Commission is the author of the remaining ones.

Please note that regarding the Commission’s documents, the Commission’s Legal Service has to carry out a concrete assessment of them before taking the decision of granting / refusing access. This is to guarantee that they can be disclosed and do not contain any information that should be covered by any of the exceptions of Regulation 1049/2001, despite the fact that these cases are no longer pending before the Court.

With regard to the documents originating from third parties, the Commission has to consult these parties according to Article 4(4) of Regulation 1049/2001, which provides that the institution shall consult the third parties with a view to assessing whether an exception in paragraph 1 of 2 is applicable. Therefore, the Legal Service will carry out the consultation procedure setting a deadline of 10 working days, in order for the third parties concerned to communicate the conclusions of their assessments. This consultation period, adds an additional administrative step to the handling of your request.

Once the process of consultation is concluded, the Legal Service will have to proceed to a final assessment of the documents in the light of the comments received and, where necessary, to redact the parts of the documents to which one or several exceptions apply. Finally, it will have to draft the reply, submit it for review and approval by the competent persons and prepare the reply as well as the documents for electronic dispatch.
**Fair solution proposal**

Due to the number of documents concerned by your request, the above-stated consultation process and the procedure following it, the Legal Service will be unable to provide you with a reply within the time limit set by Article 7 of Regulation 1049/2001. In this respect, please also note that the Commission cannot privilege one applicant and has to guarantee that all the requests are dealt with within the deadlines of Regulation 1049/2001 or, where not possible – as in the present case – to seek a *fair solution* in conformity with Article 6(3) that reconciles the interests of the applicant with those of good administration.

In accordance with the case-law of the EU Courts, a *fair solution* can only concern the content or the number of documents applied for, not the deadline for replying (judgment of 2 October 2014 in Case C-127/13, *Guido Strack v. Commission*, EU:C:2014:2250, paragraphs 26-28). This means that the scope of your request must be narrowed down in a way that would enable its treatment within the extended deadline of **15 + 15 working days** from the date or registration of your request.

In view of the foregoing, we would like to propose a *fair solution* that enables us to reconcile your interest with the principle of good administration and without prejudice to other applicants' requests.

The Legal Service considers that it would be in a position to deal within the extended deadline with the documents relating to the following cases, namely:

- Cases C-284/16, *Achmea* and C-741/19, *Republic of Moldova* (11 documents);

  **OR**


Kindly send your agreement to this proposal indicating which case(s) you would like us to deal with to the following email address: xxxxxxxxxxxxx@xx.xxxxxx.xx.

The Legal Service will proceed with dealing with your request upon receiving your agreement with your preferred choice. Once the Commission has sent you its reply, you may certainly file a new request for access covering the remaining case(s).

Yours faithfully,

**Access to Documents team**

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**European Commission**

**Legal Service**

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