Subject: Your application for public access to documents under Regulation (EC) No 1049/2001 – EASE 2024/1487

Dear Mr Teffer,


1. SCOPE OF YOUR REQUEST

In the framework of your confirmatory request submitted on 25 January 2024 in relation to your previous initial application registered under EASE 2024/0227, you requested access to the source code of the ‘one in one out’ calculator.

This part of your request was, however, not covered by the scope of your initial request which concerned: ‘[…] the Commission's internal ‘one in, one out’ calculator and its algorithm and/or methodology’.

As already indicated in the confirmatory decision of 17 March 2024 (2), pursuant to settled case-law the scope of an application cannot be extended at confirmatory level (3). Therefore, the part of your confirmatory application whereby you requested access to the source code of the ‘one in one out’ calculator, was registered as a new initial request under EASE 2024/1487, which is the subject of the present decision.

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(2) C(2024)1862 final.
2. **ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) NO 1049/2001**

Article 3(a) of the Regulation provides a definition of a document for the purpose of the Regulation as “any content whatever its medium (written on paper or stored in electronic format or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility”.

In this instance, the Secretariat-General could not identify any document under the relevant provisions of Regulation (EC) No 1049/2001 (4).

The source code for the application ‘one-in one-out’ does not fulfil the second criterion provided for in the above-mentioned Article 3(a). The code is the programming language run by the calculator for applying the methodology as per the standard-cost model (5) and it is neither an algorithm nor a methodology. It thus refers exclusively to the software and its technical features. Finally, it is clearly distinct from the content generated by the calculator and methodology and therefore cannot be considered as concerning a matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility.

Against this backdrop, the source code does not qualify as document within the meaning of point a) of Article 3 of Regulation (EC) No 1049/2001. Therefore, access to the source code requested cannot be granted under the Regulation.

3. **MEANS OF REDRESS**

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the European Commission. You can submit it via your EASE portal (6) account.

Yours sincerely,

Tatjana Verrier
Director

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(5) Tool #58 Better regulation toolbox - European Commission (europa.eu)