



Press and Information

General Court of the European Union
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Judgment in Joined Cases T-424/14 and T-425/14
ClientEarth v Commission

According to the General Court, impact assessments intended to guide the Commission in drawing up its proposals for legislative acts are not, in principle, to be accessible to the public before those proposals have been disclosed

Premature access to those documents could seriously undermine the Commission's decision-making process

In 2014 ClientEarth, a non-profit organisation whose aim is the protection of the environment, applied to the Commission for access to two impact assessments connected with EU environmental policy. The Commission refused to grant access, stating inter alia that, in view of the fact that the impact assessments were intended to help with the preparation of legislative initiatives in respect of environmental matters, the disclosure of those documents could seriously undermine its decision-making processes by restricting its room for manoeuvre and reducing its ability to reach a compromise. In addition, such a disclosure might create external pressures which could hinder the delicate ongoing decision-making processes, during which an atmosphere of trust ought to prevail.

Dissatisfied with the Commission's response, ClientEarth brought proceedings before the General Court seeking annulment of the Commission's refusal.

By its judgment, delivered today, **the General Court** rejects ClientEarth's arguments and **confirms that the Commission was justified in refusing to grant access to the documents requested.**

The General Court finds, first of all, that the Commission did not carry out a specific and individual examination of the documents requested. Nevertheless, the General Court recognises that, in the context of the preparation and development of policy proposals (and, where appropriate, proposals for legislative acts), the Commission may rely on grounds of a general nature¹ relating to the need to preserve its 'thinking space', room for manoeuvre, and independence, the need to preserve the atmosphere of trust during discussions, and the risk of external pressures liable to affect the conduct of the ongoing discussions and negotiations.

It follows that **the Commission is entitled to presume, without carrying out a specific and individual examination of each of the documents connected with an impact assessment, that the disclosure of those documents would, in principle, seriously undermine its decision-making process for developing a policy proposal**, for as long as it has not made a decision in that regard.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

¹ To date, the Court of Justice or the General Court have recognised that it is possible for the Commission to rely on a general presumption in order to refuse to grant access to documents without carrying out a specific and individual examination in eight situations. Those situations involve documents concerning (1) a procedure for reviewing State aid, (2) merger control proceedings, (3) the pre-litigation stage of an infringement procedure, (4) a procedure relating to cartels, (5) an 'EU Pilot' procedure, (6) pleadings lodged by an institution in court proceedings, (7) bids submitted by tenderers in public procurement procedures and (8) correspondence between the national competition authorities and the Commission.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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