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Standards for Whom? Advocating Transparency in EU Regulatory Documents

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Abstract: This study addresses the harmonisation of public safety standards within the framework of EU regulations and French national law, underscoring their importance for transparency, public safety, and the broader public interest. Conducted in collaboration with Public.Resource.Org, the research employs a multifaceted methodology including legal research, submission of formal information requests to French administrative bodies, and subsequent appeals to assess compliance with EU legal standards. A key focus is the 2024 ECJ ruling in Case C-588/21 P, which established an overriding public interest in making harmonised standards freely accessible, rooted in principles of rule of law, openness, and good governance. The findings expose significant gaps and inconsistencies in France's approach: authorities frequently rejected or ignored requests, citing outdated legal justifications or redirecting applicants to the costly services of the French Association of Standardization (AFNOR). These barriers, including high costs and limited access options, disproportionately affect small businesses, researchers, and individual citizens, undermining the transparency and fairness mandated by EU law. The analysis highlights critical areas for improvement, addressing bureaucratic inefficiencies, inadequate enforcement of the Code des Relations entre le Public et l'Administration (CRPA), and a failure to fully implement the ECJ's transparency directives. The study concludes with recommendations for improved legal and administrative frameworks in France and beyond. By addressing these issues, this study contributes to ongoing policy discussions, advocating for a regulatory environment that better aligns with the EU's commitment to public safety, democratic accountability, and equitable access to legal information.

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Highlights:

1. Despite the ECJ's judgment in *Public.Resource.Org, Inc. and Right to Know CLG v European Commission*, legal research administrative bodies in France failed to grant access to harmonised technical standards when requested under right to information laws
2. The *Public.Resource.Org* underlines the tension with the goals of right to information laws in the European Union and the New Approach to Standardisation.
3. The research demonstrates that administrative bodies fail to adhere to right to information laws in France.
4. This paper develops research methodology that can be replicated elsewhere in the European Union.

Abbreviations

AFNOR : Association Française de Normalisation
CADA : Commission d'accès aux documents administratifs
CEN: European Committee for Standardisation
CENELEC: European Committee for Electrotechnical Standardisation
CRPA : Code des Relations entre le Public et l'Administration
ECJ: European Court of Justice
ESO: European Standardization Organization
ETSI: European Telecommunications Standards Institute
EU: European Union
HTS: Harmonised Technical Standards
OJ: Official Journal of the European Union

1 Introduction

Are we at another turning point for standardization in the European Union? On 5 March 2024, the European Court of Justice (ECJ), sitting as a Grand Chamber, delivered a landmark ruling in Case C-588/21 P (*Public.Resource.Org, Inc. and Right to Know CLG v European Commission* — hereinafter *Public.Resource.Org*). The case arose as an appeal from a General Court decision (T-185/19), which upheld the Commission's refusal to grant *Public.Resource.Org*, a nonprofit advocating for public domain access, free access to four harmonised technical standards (HTS). The ECJ, sitting as a Grand Chamber, overturned the General Court's ruling, holding that there is an overriding public interest in disclosing HTS, rooted in the principles of rule of law, transparency, openness, and good governance. The Court reasoned that HTS, serving as indispensable tools for implementing legislation, must be freely available without charge, prioritizing public access over proprietary claims. This ruling may represent an important turning point in EU law, insofar as it suggests a departure from the prevailing approach under which standards are protected by copyright, thereby limiting access to those able to bear the financial cost of obtaining them.

The principle of delegating certain legal tasks to private bodies first began with the 1958 Meroni rulings (*Meroni & Co., Industrie Metallurgiche, S.A.S. v High Authority of the European Coal and Steel Community*, 1958). This allowed the European Commission to delegate certain legislative tasks to private bodies, provided that these are strictly executive and open to judicial review (Schepel, 2005). Under the New Approach, while the European Commission was responsible for setting legally binding 'essential requirements' through Directives, the development of precise technical specifications were delegated to European standardization bodies (Schepel, 2005, p. 228). Before, the burden of developing Harmonised Technical Standards rested with the European Commission, forcing manufacturers to navigate a complex array of regulations across different jurisdictions (Waeyenberge, 2018).

In the 1980s, The New Approach to Technical Harmonization and Standards was designed to simplify regulatory compliance in the European Single Market (Council Resolution 85/C 136/01). Instead of drafting detailed regulations for every product or sector, the EU established essential safety and performance requirements, while the actual technical specifications were left to harmonised standards developed by European Standardization Organizations (ESOs), such as the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), and the European Telecommunications Standards Institute (ETSI). The New Approach aimed to address the previous situation not only by harmonizing standards across the European economic area, but by creating market mechanisms for the development of standards. Through this, standards are developed to meet

the essential requirements arising from product directives while also serving as a marketing tool that demonstrates adherence to high levels of quality and safety (Schepel, 2005).

As defined by the European Parliament, standards serve as “voluntary technical or quality specifications with which current or future products, production processes or services may comply” (Regulation 1025/2012, p. 1). Their core purpose is to promote consistency, reliability, and fairness across diverse sectors, fostering interoperability and trust. European harmonised standards play a critical role in supporting public safety, innovation, and sustainability across various industries (Regulation 1025/2012). Developed by ESOs under mandates from the EU Commission, these standards ensure that products and processes meet essential safety and regulatory requirements while promoting cross-border trade and innovation (Your Europe, 2023). In particular, the process for drafting HTS begins with a Standardisation Request (SReq) by the European Commission in close collaboration with ESOs through a decentralized system that relies on a vast network, involving more than 200,000 experts from diverse stakeholder communities, including industry, associations, public administrations, and civil society organizations (High-Level Forum on European and International Standards, 2024). The consensus-driven, decentralized model ensures that the resultant standards are fit for purpose and possess a high degree of acceptability across the 34 participating countries.

This system enabled market-driven standardization and fostered innovation and trade by allowing private-sector experts to define technical solutions. However, the New Approach raises increasing concerns about regulatory legitimacy, access to legal standards, and industry-driven governance (Bijlmakers et al., 2024). Concerns about regulatory legitimacy stem from the fact that standardization bodies operate outside ordinary democratic processes, raising questions about accountability. Restricted access to legal standards means that the technical content of quasi-regulatory instruments may be effectively withheld from the public and the businesses expected to comply with them. Industry-driven governance, meanwhile, poses the risk that the interests of well-resourced actors dominate the technical specifications that underpin EU law, to the detriment of broader societal concerns.

However, barriers to accessing these standards undermine their regulatory purpose aimed to guide businesses through common industry rules and a common level playing field, ensuring certainty and product safety. The effectiveness of standards hinges on accessible knowledge of the common understanding they embody. In the context of European harmonised standards, pivotal in their role to ensure the free movement of goods and services within the EU’s internal market as outlined in Regulation (EU) No 1025/2012, access is often impeded. Despite their role in supporting Union legislation and facilitating market integration across Member States, these standards are typically safeguarded by copyright, restricting availability to only those able to bear the significant financial costs. Effectively foreclosing public access to standards commissioned by the EU hinders public scrutiny and accountability by denying the existence of an overriding interest, which is apparent in the case of standards, given their importance in product development and placing them on the market (Case C-588/21 P).

The significance of access is further underscored by the legal status of EU-commissioned harmonised standards. As established in the *James Elliott Construction Case* (Case C-613/1), standards form integral components of EU law; they implement secondary legislation and produce binding legal effects, particularly when referenced in Union harmonization legislation. The European Court of Justice (ECJ) has emphasized that such standards, due to their quasi-regulatory nature, should be published in the Official Journal of the European Union (OJ) to ensure enforceability and public accessibility, aligning with the rule of law and transparency principles (e.g., *Stichting judgment*, paragraphs 40-42). Yet, in practice, many harmonised standards remain inaccessible to the public, contradicting their role as public legal instruments

and the EU's commitment to openness under Article 1 of the Treaty of the European Union (TEU)¹. In this paper, we refer to “openness” as a normative principle that encompasses transparency as well as what Alemanno and Stefan (2014) describe as ‘various forms of active cooperation and communication between the EU institutions and the public, typically entailing access to information (p. 98). It involves an active commitment to making government decisions and documents accessible to all citizens, irrespective of the social, economic, or other barriers they may face.

The facts of *Public.Resource.Org* (Case C-588/21 P) centred on *Public.Resource.Org*'s 2018 request under Regulation No 1049/2001 for access to four HTS, which the Commission denied, citing copyright protection held by CEN. The core issue was whether HTS, as part of EU law, should be freely accessible to the public, or if copyright protection could justify restricted access. The ECJ held that HTS, serving as indispensable tools for implementing legislation, must be freely available without charge, prioritizing public access over proprietary claims and ensuring the principle of openness by making these standards freely accessible. Regulation No. 1025/2012, *stricto sensu*, provides that HTS are voluntary, as economic operators theoretically have alternative ways to show conformity with the requirements set out in the relevant secondary legislation. Nonetheless, one of the most significant features of HTS is the legal effect of the presumption of conformity, which makes HTS an important tool for providers, particularly those seeking to benefit from the right to free movement within the internal market. Once operators comply with the requirements of an HTS, they benefit from this legal presumption, allowing their goods and services to circulate freely within the European Union². For the purposes of this study, “freely accessible” refers to the ability to access HTS online, in a readable format, with no cost attached, therefore representing an application of the normative principle of openness.

However, as Kanevskaia (2024) notes, the court was silent on whether copyright protection of standards should be abolished (p. 4). The authors of the present study argue that, if standards are considered to form part of EU law and thus serve a public legislative function, these documents should be accessible in order to adhere to democratic accountability. Other jurisdictions, such as the United States, have resolved this issue by allowing for the non-commercial redistribution of technical standards as established in the *Georgia v. Public.Resource.Org* case (Kanevskaia, 2024, p. 6). Despite this growing body of case law and commentary, no study has yet empirically examined how national administrations within the EU have responded to the ECJ's ruling in practice: a gap this study addresses.

This study, therefore, investigates the following research question: To what extent do French administrative practices comply with the ECJ's 2024 *Public.Resource.Org* ruling on public access to harmonised technical standards, and what barriers persist to achieving openness? The study aims to assess whether citizens and stakeholders can access HTS in accordance with EU law and the ECJ's ruling in *Public.Resource.Org*, evaluating the real-world application of these transparency mandates. Openness, as used throughout this study, goes beyond the passive provision of access to documents and entails active cooperation and communication between EU institutions and the public; an affirmative commitment to making legal instruments accessible to all citizens, irrespective of the social, economic, or other barriers they may face.

The study makes several contributions to existing scholarship. Theoretically, it builds on and extends the literature on the legitimacy and transparency of European standardisation (Schepel,

¹ Article 1 of the TEU states that “decisions are taken as openly as possible and as closely as possible to the citizen.”

² <https://curia.europa.eu/juris/document/document.jsf?text=&docid=274881&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=16632315>

2005; Waeyenberge, 2018; Kanevskaia, 2024; Eliantonio & Cauffman, 2020) by engaging empirically with the national-level implications of the ECJ's ruling. No prior study has systematically tested national administrative compliance with a landmark judicial ruling on access to HTS through the mechanism of FOI-style requests. The study therefore, fills an empirical gap by combining legal analysis with action-oriented socio-legal testing of administrative behaviour.

The study's findings are also of direct societal relevance. The research was conducted in collaboration with *Public.Resource.Org* and under the direct guidance of its founder, Carl Malamud, whose organisation has been at the forefront of advocacy for public access to legal standards across multiple jurisdictions. The empirical evidence generated by this study is intended to inform and support ongoing advocacy efforts aimed at securing free and equitable access to HTS across EU Member States. Beyond the advocacy community, the findings are likely to be of practical importance to a range of societal actors: SMEs and entrepreneurs who cannot afford to purchase the standards their products must comply with; researchers and academics studying regulatory governance; civil society organisations engaged in product safety and consumer protection; and public authorities tasked with implementing and enforcing EU law. The study's recommendations are also timely in light of broader EU policy developments, including the adoption of the AI Act and the publication of the first draft AI Code of Practice in 2024 (Regulation 2025/313), where accessible standards are essential to ensuring accountability, safety, and technological progress.

Section 2 presents the methodology, describing the design and implementation of the formal information requests submitted to French administrative authorities under the CRPA, and explaining how the principle of openness is operationalised as an analytical benchmark throughout the study. Section 3 presents the findings, providing a legal overview of the basis for access to HTS under EU law—in particular following the ECJ's ruling in *Public.Resource.Org*—and documenting the responses received from French authorities, including instances of bureaucratic resistance and non-compliance. Section 4 analyses the findings across four dimensions: the conformity presumption and its practical effects on access; the interaction between intellectual property rights and public interest in the context of HTS; the relationship between public and private interests in the governance of European standardisation; and the concrete impact of access barriers on stakeholders, in particular SMEs and citizens. Section 5 formulates concrete recommendations for legislative, administrative, and institutional reform directed at national administrations, the European Commission, and the ESOs, to contribute to a fairer, more transparent, and more democratically accountable standardisation framework aligned with the rule of law.

2 Methodology

The section details the methodological framework used to organize and submit requests for access to standards to French public administrations. The research started approximately 6-months after the adjudication of the *Public.Resource.Org*, aiming to examine the compliance of the French administration with the ECJ's ruling and its obligations in light of the right of access to information. Between September 2024 and June 2025, the research process was divided into six phases, during which eleven formal requests were submitted and follow-up communication with seven different administrative bodies was established.

The action-oriented nature of this research derives from the direct submission of formal requests, which simultaneously challenge and measure the current administrative process. In particular, the research contests the limitations imposed on access rights through requests submitted in accordance with French law. In parallel, the systematic registration of response

times, the categorisation of refusal types, and the comparison of outcomes across request types yield indicative measurements of the current framework. This process generated original results demonstrating the extent to which access to standards is formally possible and how the process functions in practice, thereby lending a socio-legal character to the findings.

In this context, the selection of France as the primary case study warrants explanation. First, the authors were based in Paris, which rendered it practically and methodologically advantageous to concentrate on the French administrative framework. Second, French administrative law possesses distinctive features that make it a particularly relevant case for studying access to Harmonised Technical Standards (HTS). Specifically, the CRPA (Code des Relations entre le Public et l'Administration) and the administrative body responsible for overseeing its application, CADA (Commission d'accès aux documents administratifs), provide a structured procedure for requesting access to public documents, the strengths and limitations of which remain insufficiently examined in the literature. Third, France's national standardisation body, AFNOR (Association française de normalisation), holds key institutional authority over the conditions under which standards are made available, an aspect that has similarly received limited scholarly attention.

It is equally important to acknowledge the limitations encountered throughout the research process. As none of the authors were French nationals, the French case was approached with a degree of critical distance from domestic discourses. Each member positioned themselves as an external researcher seeking to understand the relevant legal procedures and identify existing gaps. While personal perspectives inevitably informed the work, the authors maintained transparency regarding the methodology and steps taken in order to ensure academic rigour.

2.1 Phase One: Research on the French Legal Framework

We first conducted background legal research on the CRPA³ in France regarding the procedures for accessing public documents, submission guidelines, response timelines, and the process for appealing through CADA.

Based on CRPA, we outlined the steps and procedures for public access requests to the French administration. Table 1 summarizes the legal process in France to request access to public documents:

Table 1: Request Process for Public Documents

Form of Request (Online/Offline)	In France, access to public documents can be requested offline, through email, or via a dedicated online form (L112-8/CRPA). To submit a request, applicants are required to provide the responsible authorities with key contact information, including their name, surname, email, and, optionally, their telephone number.
Content of the Request	The request must clearly specify the document under request, but no justification is required. The applicant can choose to receive the document in person, by post, or online. Contact details of the responsible administrative officer are provided on the CADA website, unless anonymity is justified by public safety reasons (L111-2/CRPA).

³*Code des relations entre le public et l'administration* (France), Ordonnance n° 2015-1341 du 23 octobre 2015. Available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000031360943>.

Response Deadline	Acknowledgement of receipt must be provided within approximately one month (L112-3/CRPA). The administration can request additional information if the application is incomplete, and then a new deadline will be set (L114-5/CRPA). Implicit or explicit decisions on approval or denial of the request are indicated in the receipt.
Procedure for Appeal	If access is denied or the administration does not respond within the deadline, the applicant can appeal to CADA within two months after the implicit rejection (R311-14 & R341/CRPA). The required information for appeals includes the applicant's name, surname, residence, request details, and a copy of the refusal (if any). Appeals are free of charge and can be made online or by mail. Any contentious decisions taken by CADA must be made public (L342-4). Furthermore, the chair of the commission may make recommendations for the changing of public legislation relating to "right of access to administrative documents or the right to re-use public information" (R342-5). After the appeal to CADA, the case can also be referred to for litigation (L342-3/CRPA).

2.2 Phase Two: Standards Selection

After having identified the legal requirements for a valid request to access public information, we selected 11 standards to ask from different administrations. The selection of these specific standards was based on their sectoral diversity to ensure a broader survey, including both thematic diversity and a great range of administrative responses. To achieve this, the standards chosen focused on key regulatory and safety domains. In detail, we selected environmental standards for household appliances as they are essential for ensuring energy efficiency and compliance with EU safety requirements. Additionally, we prioritized industrial and structural manufacturing standards, which are crucial for establishing a uniform framework that guarantees durability and reliable operation in infrastructure. Finally, some of the standards refer to medical devices and electric vehicles, given their role in enhancing safety in the healthcare and transportation sectors. These standards simultaneously reduce environmental impact and drive innovation across multiple industries.

To ensure that the selected standards are harmonised, the authors first identified them within the OJ. We labeled the standards based on their title, description, and the EU directive(s) they are linked to. After finding the standards in the EU Journal, we cross-referenced our findings with the official database of adopted legislative texts on Legifrance⁴. We followed the same process with the French Association of Standardization (Association Française de Normalisation, AFNOR), which serves as the primary national standards organization in

⁴Légifrance, *Le service public de la diffusion du droit*. Available at: Légifrance - Le service public de la diffusion du droit. For example, you may find NF EN 10340 Standard's adoption here: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000023247778?init=true&page=1&query=NF+EN+10340&searchField=ALL&tab_selection=all

France and is responsible for disseminating standards. Figure 1 includes all the standards requested as they appear on AFNOR's main website⁵.

2.3 Phase Three: Cross-Referencing Standards

We then proceeded with the identification of the responsible French administration. To do so, we used CADA's online tool, which lists the responsible bodies' contact details, and we addressed our requests to the respective administrations depending on their competence. As shown in Table 2, these included the municipal (Paris), regional (Ile-de-France), and national administration offices, such as the Ministry of Education, Finance, and Interior Affairs (hereafter referred to as the Ministry of Finance (MoF)).

Table 2: List of Standards Requested by the French Administration Offices

Standard Number	Standard Name	Team Member	Initial Administration Requested
NF EN 16898/IN1	Équipements auxiliaires pour brûleurs à gaz et appareils à gaz - Filtres à gaz ayant une pression de service maximale inférieure ou égale à 600 kPa	Logan	Ministère de l'économie, des finances et de l'industrie
NF EN 60436/A11	Lave-vaisselle électriques à usage domestique - Méthodes de mesure de l'aptitude à la fonction	Logan	Agence de l'Environnement et de la Maîtrise de l'Énergie (ADEME)
NF EN 30-2-1	Appareils de cuisson domestiques utilisant les combustibles gazeux - Partie 2-1 : utilisation rationnelle de l'énergie - Généralités	Logan	Conseil régional d'Ile-de-France

⁵All the requested standards may be found here: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000023247778?init=true&page=1&query=Nf+EN+10340&searchField=ALL&tab_selection=all

NF EN ISO 14001	Systèmes de management environnemental – Exigences et lignes directrices pour son utilisation	Lenora	Agence de l'Environnement et de la Maîtrise de l'Énergie (ADEME)
NF EN 60350-1	Appareils de cuisson électrodomestiques - Partie 1 : cuisinières, fours, fours à vapeur et grils - Méthodes de mesure de l'aptitude à la fonction	Lenora	Maire de Paris
NF EN 62196-1	Fiches, socles de prise de courant, prises mobiles et socles de connecteur de véhicule - Charge conductive des véhicules électriques - Partie 1 : règles générales	Lenora	Maire de Paris
NF EN ISO 11137-1	Stérilisation des produits de santé - Irradiation - Partie 1 : exigences relatives à la mise au point, à la validation et au contrôle de routine d'un procédé de stérilisation pour les dispositifs médicaux	Lenora	Agence nationale de sécurité du médicament et des produits de santé
NF EN ISO 11850/A2	Matériel forestier - Exigences de sécurité générales - Amendement 2 : accès au poste d'opérateur et emplacements de maintenance	Lenora	Centre National de la Propriété Forestière
NF EN 10207	Aciers pour appareils à pression	Erla	Conseil régional d'Ile-de-France

	simples - Conditions techniques de livraison des tôles, bandes et barres		
NF EN 10340	Aciers moulés de construction	Erla	Conseil régional d'Ile-de-France
NF EN IEC 61851-1	Système de charge conductive pour véhicules électriques - Partie 1 : exigences générales	Erla	Agence de l'Environnement et de la Maîtrise de l'Énergie (ADEME)

2.4 Phase Four: Request Submission

At the beginning of October 2024, we drafted and submitted the requests for each standard to the respective administrations. During the first round of emails, all individual requests were based on the same template, following the legal requirements established in the French law. The authors preferred using the same template because this way they could better identify any differentiations between the received responses. The aforementioned template can be found in the Appendix (Appendix A).

In France, the CRPA grants administration offices one month to either acknowledge a request or request additional time to complete the process. In cases where neither occurred, we implemented a follow-up strategy. We sent them an email, reminding them of their legal obligations, and restated our request for the standards. Through this process, the authors ensured that administrative offices were given sufficient time for a response and that we maintain engagement without exerting undue pressure.

2.5 Phase Five: Request to AFNOR

In some cases, we received delayed or incomplete responses, and, therefore, the authors decided to forward the requests directly to AFNOR, given its mandate in disseminating HTS in France (*CRPA*, 2015). This stage was approached the same way as the initial email requests. In detail, we prepared another shared template for our individual requests and sent them to AFNOR (the template is in Appendix B). However, this time the authors sent an email that included all of the standards that each of them had requested rather than one for each standard.

AFNOR did not respond within the required one-month deadline, and thus, the authors proceeded to appeal to CADA (see below). Nonetheless, two months after our request, AFNOR did reply. In its email, AFNOR clarified its role in the process of accessing standards and outlined the means through which we could obtain the requested standards. Unfortunately, the suggested means did not meet our expectations as they required purchasing the standards online or traveling to a limited number of in-person locations. This response further highlighted that free access to European harmonised standards remains significantly restricted in France.

This stage also served to test whether any additional legislative tools could be mobilized to improve citizens' access to harmonised standards, beyond the mechanisms already considered. At the same time, it confirmed that AFNOR is aware of the ECJs *Public.Resource.Org* ruling but has not yet adopted practices that would ensure broad, no-cost access in line with that decision.

2.6 Phase Six: Appeal to CADA

Due to the failure of the French administrations and AFNOR to respond to our requests, our team appealed to CADA. The appeal involved a written memo documenting the entire process

undertaken, including our requests to various administrative bodies, the specific standards requested, and the responses received. Additionally, it included cases where standards were not provided or where they were unclear. The relevant email chains and the supporting documents were merged into a single comprehensive document to ensure a clear presentation of evidence. An example of our appeals to CADA can be found in Appendix C. In our appeal, we clarified that the requested standards are issued pursuant to EU law and are transposed into French legislation. Despite this, these standards are only accessible through payment to AFNOR, contrary to the ECJ decision.

3 Findings

3.1 Comparative Summary of Responses

Following our request submissions, most administrations responded within the one-month timeframe required under Article R311-13 of the CRPA⁶ (see Figure 1). Overall, the responses can be broken down into three categories: *No Response*, *Rejection*, or *Referral to another administration*. The coding methodology is elaborated in Table 3. Table 4 presents a breakdown of the frequency of response per category.

First, *No Response* refers to requests that were completely ignored by the administration. Article R311-12 of the CRPA establishes that no response after a month is considered a tacit refusal. Thus, citizens have the right to contest the apparent refusal of CADA, which should decide upon and grant access, provided by the requested institution, or confirm the refusal⁷. In the meantime, we continued to send regular follow-up emails to the administrations we initially requested.

Second, *Rejection*, refers to responses from the administration which either failed to provide us with the standard or refer us to another body. In the majority of these cases, the administrations directed us to the AFNOR website to purchase the standard, claiming they did not have the competence to provide us with it. The MoF was the only administration to provide a substantial response that cited a past CADA opinion to justify denying us access to the standards (displayed in Table 4).

Lastly, *Referral* to another administration occurred in only a minority of cases. Rather than directing us to purchase the standards on AFNOR, those bodies directed us to another public authority who might hold the documents. While these alternative administrations ultimately did not provide us with the standard, they provided additional evidence for this research.

Each of these categories can be characterised by the extent to which they fail to operationalize openness through the application of the ECJ's decision to make HTS freely accessible. Thus, this paper empirically tests the application of openness through whether or not French administrative bodies ensure that they are made freely accessible. None of the classified categories uphold the principle of openness as defined in this paper. It is important to mention that fully applying the principle of openness would go beyond simply making standards freely accessible as it goes beyond passively ensuring access to documents (Alemanno & Stefan, 2014).

⁶Article R311-13 (Code des relations entre le public et l'administration). "Le délai au terme duquel intervient la décision mentionnée à l'article R. * 311-12 est d'un mois à compter de la réception de la demande par l'administration compétente." ("The time limit for the decision mentioned in article R. * 311-12 is one month from receipt of the application by the competent administration."). Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000031370409.

⁷Ibid

A total of 21 different requests were submitted at this stage (including all separate requests to different administrations but excluding AFNOR and CADA)⁸. Given that we used a common template for our requests, we did not observe any systematic difference in responses. The one observable difference across responses relates to jurisdiction. Specifically, smaller municipal and regional level bodies such as the Mayor of Paris office and the regional board for Ile-de-France appeared not to have the capacity to provide us with the standards and exhibited confusion in their responses. For example, the latter administration requested that we follow up with them via a telephone call so they could better understand our request. On the other hand, national-level administrations were overall more responsive to our requests.

Overall, most administrators failed to provide us with the requested standards or any helpful information. Indeed, a majority either provided short and unhelpful responses or did not reply altogether. Moreover, the only legal justifications provided in the responses came from the MoF and AFNOR. Thus, they did not provide clarity on whether the administrations' responses were justified, nor did they outline the steps we should take to continue our efforts to access these standards free of charge. Despite this, responses from the MoF and AFNOR provide a first indication of the legal basis the French authorities may use to deny our requests. The next section is dedicated to the analysis thereof, specifically outlining the legal arguments used by the two bodies to deny us the requests, thereby failing to uphold the principle of openness.



Figure 1: Example Response from Administration

Table 3: Coding of Responses

Code	Description	Application of the Principle of Openness
No Response	Refers to cases where the request to access harmonised were ignored by the French administration.	These cases involve a passive denial of the right to openness.
Rejection	Refers to cases where the French administration refused to provide the harmonised standard, either explicitly or by referring the	These cases involve an active denial of the right to openness by failing to make harmonized standards freely accessible.

⁸A response includes both implicit and explicit rejections from each separate administration we reached out to for a standard. It does not include follow-ups with a specific administration. It is possible to have multiple responses for each individual standard. For example, three responses are coded for standard NF EN 62196-1: one to the Maire de Paris, Ministère de l'intérieur, and Ministère de l'économie, des finances et de l'industrie

	authors to purchase the standard online via AFNOR.	
Referral	Refers to cases where the French administrative body in practice referred the authors to another body.	This case represents neither fulfillment nor denial of the right of openness.

Table 4: Frequency of Response by Category

Response	Frequency
Rejection	9
No Response	8
Referral	4

3.2 Analysis of Responses

First, the MoF denied access to the standard requested on the basis of CADA administrative opinion 20185529. In this 2019 case, CADA upheld AFNOR’s decision to reject an individual’s request for two French standards to publish them freely online.

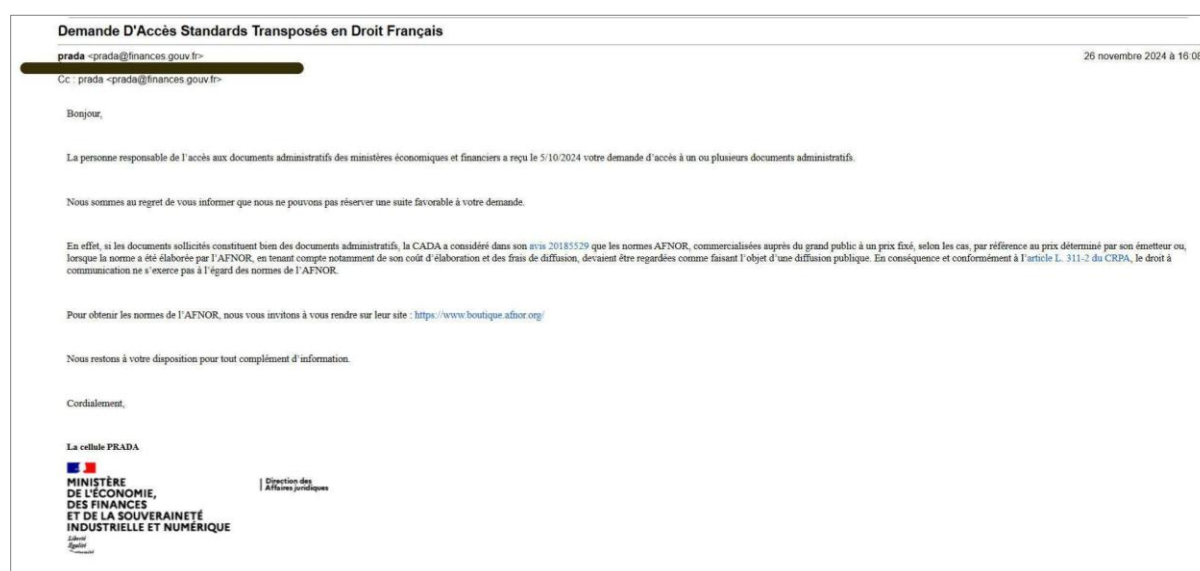


Figure 2: Response from the Ministry of Education, Finance, and Interior Affairs

The legal argument behind this decision proceeds in two steps. First, CADA determines whether the CRPA applies to AFNOR. Second, if the CRPA applies, CADA must consider whether the right to communication for AFNOR documents follows. To determine applicability, CADA notes that the CRPA applies not only to public bodies but also to private organisations entrusted with a public service mission by the state⁹. This legal category is

⁹Article L300-2 (Code des relations entre le public et l’administration). “Sont considérés comme documents administratifs, au sens des titres Ier, III et IV du présent livre, quels que soient leur date, leur lieu de conservation, leur forme et leur support, les documents produits ou reçus, dans le cadre de leur mission de service public, par l’Etat, les collectivités territoriales ainsi que par les autres personnes de droit public ou les personnes *de droit privé chargées d’une telle mission*.” (emphasis mine) (“For the purposes of Titles I, III and IV of this book,

applicable to AFNOR on the basis of the 2002 SSR 210043 Conseil d'État decision. This found that AFNOR serves a public mission given its role in identifying standards, coordinating standardisation work, and representing France's interest in standardisation among other roles.

While this establishes that the CRPA is applicable, the right to public communication does not automatically apply. Particularly, the code contains an exception for documents already considered publicly distributed¹⁰. According to the CADA opinion, this exception applies to AFNOR documents since they can either be accessed for free in-person or purchased online for a price reflecting its development and distribution costs. Therefore, the right of communication does not apply. Using this decision, the MoF denied us access to the standards. Importantly, this paper will argue that this falls short of making standards freely accessible and therefore fails to uphold the principle of openness.

For our request to AFNOR itself, the body also used CADA opinion 20185529 (CADA, 2019) to deny us access to the standards (see Figure 3). However, they did acknowledge our argument that harmonised standards must be disclosed based on the *Public.Resource.Org* case. Here, they stated we may approach the European Commission directly to gain access to the standards. This response is not satisfactory, since it is NSOs that hold responsibility for the dissemination and distribution of the standards under the European standardization framework (Kanevskaia, 2024). Indeed, standards are not purchased from CEN or other European standards organizations, but the NSOs within each member state.

In short, these two responses unveil how public authorities and standardization bodies in France might skirt their obligations under the *Public.Resource.Org* case to provide access to harmonised standards when requested by the public. Specifically, each relied on CADA opinion 20185529 which stated AFNOR documents are not subject to the right of communication. Nonetheless, this opinion was decided prior to the *Public.Resource.Org* case. Our latest appeal to CADA, citing this case, may therefore produce a new opinion on the disclosure of AFNOR documents. However, at the time of writing, the authors' appeals to CADA have been ignored, despite being over a year since submission. In the following section, we draw on this experience to argue that legal and practical challenges remain for accessing HTS. Furthermore, we will show how they demonstrate more fundamental flaws with the European standardization regime.

administrative documents are documents produced or received by the State, local authorities, other public-sector entities or private-sector entities entrusted with a public-service mission, regardless of their date, place of storage, form or medium.”). Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033218936.

¹⁰Article L311-2 (Code des relations entre le public et l'administration). “Le droit à communication ne s'exerce plus lorsque les documents font l'objet d'une diffusion publique.” (“The right to communication is no longer exercised when documents are publicly distributed.”). Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000031367700.

Nous vous prions de bien vouloir accepter nos excuses pour le délai de réponse.

Nous accusons réception de votre demande datée du 13/11/2024 concernant l'accès aux normes suivantes :

1. NF EN 16898/IN1
2. NF EN 60436/A11
3. NF EN 30-2-1

Nous tenons à vous informer que l'AFNOR, en tant qu'organisme exerçant une mission de service public, est soumise aux dispositions du Code des relations entre le public et l'administration (CRPA) qui a codifié en son Livre III la Loi n°78-753 du 17 juillet 1978. Vous êtes donc recevable à formuler cette demande d'accès aux documents appelés ci-dessus.

Cependant, ces documents dont vous demandez la transmission sont consultables gratuitement sur place,

- soit au siège de l'AFNOR, (en répondant directement à ce mail avec vos disponibilités pour un RDV)

- soit dans l'une de nos délégations régionales ou points d'accueil, où toute personne intéressée peut les consulter <https://www.afnor.org/le-groupe/nous-trouver/>

Elles sont également commercialisées auprès du grand public aux mêmes endroits ainsi qu'en ligne sur notre site internet www.boutique.afnor.org

Conformément à l'article L311-2 du CRPA ainsi qu'aux avis de la Commission d'accès aux documents administratifs (CADA), ces moyens de diffusion doivent être regardés comme faisant l'objet d'une diffusion publique. Les documents auxquels vous demandez l'accès sont ainsi soustraits au régime de communication des documents administratifs. Par conséquent, votre demande d'accès ne nous semble pas recevable.

Conformément au CRPA et notamment à son article L 311-14, cette réponse vaut décision de refus de communication des documents demandés. Vous avez la possibilité de saisir la Commission d'accès aux documents administratifs (CADA) pour contester cette décision. Vous disposez d'un délai de deux mois à compter de la réception de cette lettre pour saisir la CADA. Suite à l'avis de la CADA, vous pourrez alors saisir le tribunal administratif compétent.

Pour répondre plus particulièrement à votre commentaire relatif à l'affaire C-588/21 P, vous pouvez en effet demander à la Commission Européenne communication des normes harmonisées, sur la base du Règlement 1049/2001. Nous vous invitons donc à vous rapprocher de la Commission Européenne à cet égard.

Nous vous remercions de votre compréhension et restons à votre disposition pour toute information complémentaire.

Veuillez agréer, Monsieur Pecht, l'expression de nos meilleures salutations.

Samia GABIS

Figure 3: Response from AFNOR

4 Analysis and Discussion

The study reveals major barriers to accessing harmonised European standards in France, despite their legal and regulatory significance. French authorities frequently rejected or ignored formal access requests, citing legal constraints. While the ECJ's ruling in *Public.Resource.Org* (Case C-588/21 P) affirms that HTSs, once published in the OJ, are part of EU law and must be freely accessible, French authorities have yet to enforce this ruling, continuing to rely on outdated interpretations that operate on the basis of financial incentives and the expense of transparency. Practical hurdles compound these issues: costs ranging from €48.34 to €748.68 (median €245.44 - full list in Appendix D) burden small businesses and researchers, physical consultation excludes remote or disabled users, and inconsistent responses from confused municipal authorities versus restrictive national agencies highlight a systemic failure to ensure accessible, equitable access to standards essential for compliance and innovation. Thus, we argue that serious deficits in the application of openness remain in Europe for HTS.

Based on our research findings, we identified several critical issues that highlight a fundamental tension in the accessibility of HTS. At the heart of this conflict lies a clash between the public's right to freely access these quasi-legal documents and the commercial interests of French administrative bodies and ESOs, which favour cost recovery over openness. This dual justification, rooted in the presumption of conformity and copyright claims, sustains systemic barriers that disproportionately hinder SMEs, researchers, consumer advocates, and individuals lacking financial resources, while large corporations leverage their economic advantage to navigate the market. Moreover, since harmonised standards are considered quasi-legal documents written in "legalese" (a more technical and professional language), they might be more difficult to read for the common citizen to understand. Consequently, these restrictions not only limit participation in the regulatory process, a key component of openness, but also undermine the uniformity and public accountability that harmonised standards are intended to ensure.

4.1 Challenges faced by Citizens

In particular, we outline the challenges faced by private citizens when attempting to access harmonised standards. We begin by demonstrating how the practice of charging uniform prices for standards undermines the purpose of having access to public documents. We will then describe how this unveils fundamental issues with the regime for requesting public documents in France as it is a case where the principle of openness is not fully applied.

First, the price set by AFNOR for harmonised standards is impractical for private citizens. These costs could pose non-negligible financial barriers for individuals, indiscriminate of the purpose they need access for. While these standards can be accessed in person at AFNOR access points, free of charge, the cost of transportation must still be factored in.

Moreover, limitations on the ability to copy the requested standards may make in-person access impractical for certain objectives and undermine the purpose of having access to public documents, which should be continuously available to citizens under this paper's definition of openness. For example, researchers may need continuous or remote access to standards for the purpose of their analysis. This limitation is also impractical for disabled people, who may need access to tools such as text-to-speech, adjustable font sizes, and others to guarantee readability. Failing to do so perpetuates ableism by limiting government accessibility to harmonised standards to those with disabilities.

As discussed in the introduction, European harmonised standards are extremely helpful for ensuring public safety, innovation, and sustainability for various goods and services, including emerging technologies such as AI (Ducato, 2023)¹¹. They are not mere industry guidelines, but have regulatory and binding effects for businesses. Thus, by limiting access to harmonised standards, citizens are unable to determine whether standards follow necessary regulations.

Beyond difficulties in accessing HTS themselves, this study identified fundamental flaws in how the CRPA is applied in practice. In particular, while article R311-12 of the CRPA states that it is required for administrations to reply within one month of receiving a request, the authors found this was not followed in practice. In addition, it is not clear which authority has the competency to provide documents for a particular request. Since nothing in the CRPA requires administrations to refer us to the proper authority, requesting public documents in France requires a process of trial and error. These issues pose key practical challenges that undermine government transparency. Thus, our experience in requesting HTS unveils significant barriers in requesting public documents in France. They also suggest flaws in openness and transparency under the New Approach regime of standardization within the EU, as in this case citizens cannot practically access documents that hold legally binding effects.

4.2 Presumption of Conformity: A Double-edged sword

The New Approach to harmonisation, a cornerstone of EU regulatory policy, relies on the principle of presumption of conformity, which grants automatic compliance recognition to products that meet harmonised standards (Schepel, 2005). Under this framework, the European Commission publishes directives and regulations, accompanied by lists of “harmonised standards in support of certain directives” that, once cited in the OJ, trigger this presumption (Zacek-Gebele et al., 2025). For example, in Machinery Regulation (EU) 2023/1230 (Regulation 2023/1230, 2023):

“A product within the scope of this Regulation which is in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union

¹¹ See also *Commission Implementing Regulation (EU) 2025/313*

shall be presumed to be in conformity with the essential health and safety requirements set out in Annex III covered by those standards or parts thereof.” (Art. 20)

This mechanism streamlines compliance, reduces regulatory burdens for manufacturers, and supports a cohesive internal market by ensuring consistent safety and performance benchmarks. Yet, this efficiency comes at a steep cost, rendering the presumption of conformity a double-edged sword. While it simplifies enforcement, it creates a paradox: businesses, researchers, and citizens are supposed to comply with standards they cannot freely access, as these are often locked behind paywalls controlled by private ESOs. Given these standards are voluntary, businesses have the option of complying through other avenues and methods but the reality is that it is often “too expensive and onerous” as opposed to simply buying the standard (Mattli & Buthe, 2011), becoming yet another barrier. Some might argue this isn’t a paradox but a practical market reality—without fees, ESOs and the businesses who help design technical standards do not have the market incentive to do so (Schepel, 2005), and since companies (who typically need them) can usually afford the costs, which are minimal given the standards’ infrequent updates, the system functions as intended.

However, from a citizen’s perspective, this stance falters: harmonised standards, as quasi-legal components of EU law, affect public safety and consumer rights broadly, not just corporate interests, and restricting access denies citizens the ability to understand, challenge, or contribute to rules that shape their daily lives—such as product safety or environmental protections—thus stifling democratic participation. Indeed, the European Commission acknowledged during the COVID-19 pandemic that waiving copyright on certain medical and equipment standards helped facilitate their rapid production and distribution (Ducato, 2023). As noted by *Public.Resource.Org* (Case C-588/21 P), “the European Union is based on the principle of the rule of law, which requires free access to EU law for all natural or legal persons of the EU, and that individuals must be able to ascertain unequivocally what their rights and obligations are” (p.14). Moreover, as emphasised by Alemanno and Stefan (2014), the principle of openness enshrined in EU law ‘consists not only of the rather passive right of every citizen to have access to information but also of a more pro-active institutional duty to ensure that all its actions are carried out in an accessible and understandable way’ (104). We argue that the current approach for the development and dissemination of HTS, particularly through a privatised and opaque process, fails to uphold this principle. Thus, this inaccessibility obscures what compliance entails, undermining the transparency and verifiability essential to a fair regulatory system. The circular logic—using the presumption of conformity to justify restricted access, further entrenches ESOs’ influence over EU law, turning a public regulatory tool into a private revenue stream. Far from enhancing accountability, this opacity erodes trust in institutions, as stakeholders cannot scrutinize the rules underpinning compliance. Thus, a mechanism meant to facilitate market participation and safety now shields ESOs from public oversight, disproportionately burdening smaller entities and reinforcing inequities, all while weakening the democratic legitimacy of the EU’s regulatory framework through the denial of the principle of openness.

Furthermore, it is arguable how much revenue ESOs and NSOs derive from the sale of standards (Kanevskaja, 2024). Ducato (2023) notes that the sale of harmonised standards only accounts for 4.6% of CEN’s revenues, while ETSI already makes standards free on their website. It is also important to note that based on the authors’ informal discussions with industry insiders, CEN/CENELC is also considering making their harmonised standards freely accessible on their website. While this is a step towards enforcing the ECJ’s ruling at the European level, it is unclear the scope or medium for accessing these standards. On the other hand, NSOs claim the sale of standards in general does play a large role in their revenues. For instance, in 2024, the Finnish standardization body, SFS, claimed that 80% of the

organization's funding comes from sales, with only 10% coming from the state (SFS Finnish Standards, 2025). If NSOs are reluctant to forgo the sale of standards as part of their revenue model, there is a possibility that state financing can play a bigger role. For example, the Netherlands and France have a system in place to 'buy-off' standards developed by NSOs and referenced in national law (Kanevskaja, 2024).

While scholars such as Schepel (2005) argue that standards under the new approach should be considered a form of private rulemaking that can adapt to technological change, rather than a public law equivalent, the ECJ confirms in *Public.Resource.Org* (Case C-588/21 P) that "harmonised standard may specify the rights conferred on individuals as well as their obligations and those specifications may be necessary for them to verify whether a given product or service actually complies with the requirements of such legislation" (p. 16). Therefore, while standards are not typically considered to be 'voluntary' as specified by Regulation (EU) No 1025/2012, in reality the presumption of conformity is so strong that they impose legally binding effects. Indeed, following *James Elliot Construction* (James Elliott Construction Limited v Irish Asphalt Limited, 2016), the court has been contributing to the legalization and juridification of standards (Ducato, 2023; Waeyenberge, 2018). Thus, while contributing to the operation of a free and open market, the presumption of conformity granted through the adherence of harmonised standards gives rise to legally binding effects. This implies that under the principles of openness, harmonised standards must be made publicly accessible. However, this contributes to potential contradictions of the new approach, particularly surrounding the issue of copyright.

4.3 Copyright as a barrier to access: The Privatization of Public Law?

The presumption of conformity's reliance on inaccessible HTS sets the stage for a deeper conflict over copyright, where the privatization of public law¹² threatens the transparency and equity promised by the EU's regulatory framework.

In December 2024, the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) initiated legal proceedings against the European Commission, seeking to annul the Commission's decision to grant public access to certain International Standards under Regulation (EC) No 1049/2001, which governs public access to European Parliament, Council, and Commission documents (Case T-631/24). This move underscores a broader tension: the privatization of what many consider public law through copyright barriers, pitting intellectual property claims against the democratic imperative of transparency.

ISO and IEC argue that the Commission's decision to disclose these standards infringes upon their intellectual property rights¹³, asserting that such disclosure would undermine their commercial interests and violate protections afforded by international agreements, including the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Agreement on Technical Barriers to Trade (TBT). This reflects the fact that many harmonised standards are adopted by CEN/CENELEC through the Vienna and Frankfurt agreements in which ISO and IEC standards are cited in OJEU with or without amendments. This contrasts the homegrown approach, where standards are developed independently by CEN and CENELEC (High-Level Forum on European and International Standards, 2024). For the former standards, the ISO and IEC contend that the Commission

¹² The Privatization of Public law has been an ongoing struggle since the European Commission embraced the Neo-Liberal point of view in the 1990s (Schoechle, 2003)

¹³ European Union, "EUR-Lex - 62021CJ0588 - EN - EUR-Lex." Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A62021CJ0588&utm_, accessed March 6, 2025.

failed to assess adequately whether an overriding public interest justifies the disclosure of these International Standards, as opposed to HTS, and that releasing these documents could adversely risk straining international relations by undermining the trust of global partners who rely on the stability and confidentiality of the ISO/IEC framework¹⁴. The immediate and most damaging consequence of *Public.Resource.Org* is the operational deadlock resulting in a publication freeze. Due to the unresolved copyright issues, ESOs are currently unable to propose any EN ISO or EN IEC standards for publication in the Official Journal. This prevents technical standards critical for market compliance from being updated or introduced. The scope of this backlog is significant. For instance, roughly one quarter of the 800 standards relevant to the Machinery Directive 2006/42/EC are derived from EN ISO or EN IEC standards (Zacek-Gebele et al., 2025; Casus Consulting, 2025).

This clash echoes earlier judicial findings, notably, *James Elliot Construction* (James Elliott Construction Limited v Irish Asphalt Limited, 2016, p. 12) previously established that once cited in EU legislation, HTS become part of EU law. However, NSOs state that copyright protections enable them to charge for access, making standards of intellectual property over public law (Soroiu, 2024). This is further complicated by lack of clarity of EU copyright law, which does not explicitly exclude laws or official texts from protection (Volpato, 2017). Moreover, while the court had ruled that HTS are effectively part of EU law, they are still created by private organisations that rely on fees to function. The main predicament here is a system dependent on outsourcing the development of HTS to private organisations that must now figure out how to provide that legal information for free (Colombo & Eliantonio, 2017).

For copyright law to be utilised, the document must be both a literary expression and original. Here, ECJ ruling suggested that harmonised standards may fail to meet these criteria (Lundqvist, 2017). In particular, their drafting is dictated by technical and legal constraints as opposed to creative choices. The Advocate General (AG) Medina further argued that due to stringent regulations and mandates from the European Commission, the scope for personal creative choices in drafting HTS is minimal, thereby questioning their eligibility for copyright protection (Ducato, 2023; Mendis & Kanevskiaia, 2024). Standardization bodies continue to assert copyright claims to maintain exclusive control over regulatory standards. This practice has raised concerns about the privatization of public law, as it allows private industry groups to control access to legally binding rules.

4.4 The Larger Battle: EU vs. Private Standardization Bodies

The ISO/IEC lawsuit against the EU commission reflects a deeper dispute over who holds, or ought to hold, authority over EU standardization policy. For example, the Commission's 2022 Standardization Strategy explicitly aims to reduce the influence of non-European industry players over European standards, particularly within ETSI, CEN, and CENELEC (European Commission, 2022). Historically, ESOs have played a dominant role in shaping EU regulatory frameworks, despite being semi-private entities with limited public oversight (Larouche & Baron, 2023). By pushing for public access to harmonised standards, the Court is challenging the dominance of private standardization bodies and reasserting regulatory authority (Soroiu, 2024). This is part of a wider trend in EU regulatory policy. In AI governance, concerns over private-sector controlled the Commission to tighten oversight of AI standardization processes (Larouche & Baron, 2023). In digital markets, the Digital Markets Act (DMA) and Digital Services Act (DSA) were introduced to curb Big Tech's influence after years of self-regulation (European Commission, 2023). The outcome of the ISO/IEC case will set a precedent for the

¹⁴ Ibid.

future of EU standardization governance. If the Commission loses, it could weaken its regulatory authority, reinforcing the role of private entities in shaping legally binding standards. If the Commission wins, it could pave the way for broader transparency reforms, ensuring that public regulations remain freely accessible (Al-Faruque, 2024).

5 Recommendations

One of the study's main goals was to identify the gaps in the process of requesting access to European harmonised Standards. As clarified above, the French legal system has significant shortcomings concerning access to public documents. Along with identifying these gaps, there are several recommendations to enhance transparency and promote public access to HTS in France, ensuring the principle of openness. We propose the following amendments to the French legal system and mechanisms for requesting HTS:

1. The CRPA should be amended to explicitly recognize harmonised standards as public documents that must be freely accessible, in alignment with the ECJ in the *Public.Resource.Org* case.
2. A standardized process should be established to make requests for public documents more transparent and accessible to citizens, such as through a centralized online form.
3. An EU application should be created, providing all European harmonised standards in an online format with accessibility features, such as text-to-speech for visually impaired people.
4. ESOs should create websites, perhaps in a Wikipedia format, providing the public with key information and summaries of the standards. This initiative will enable citizens and researchers to access, even partially, standards and overview the guidelines that apply in various sectors.
5. ESOs should provide companies, citizens, and researchers with the services that will help them understand and apply the needed standards. These services can be provided for a fee that will vary depending on the type and level of assistance requested by the client.
6. States may purchase standards from ESOs and distribute them to their citizens, thereby simplifying access to public documents while supporting ESOs in the continued development and adoption of essential harmonised standards.
7. Online public awareness campaigns should be organized to promote the importance of free access to harmonised standards. Most citizens are not adequately aware of the importance of European harmonised standards and the complexity of accessing them. To support these efforts, ESOs could create educational videos, infographics, and articles to make standards more approachable and understandable to the general public (*see Sáenz-Nuño et al., 2025*).
8. Researchers in the field should push for greater accessibility to the European harmonised standards.
9. A state mechanism should be established to guarantee CADA's accountability and oversee response processes
10. Physical and online copies of the European harmonised standards should be freely accessible to everyone.

These proposals are indicative, and their combined implementation can help ensure unrestricted access to public documents. However, in order to achieve progress in this field, EU states, like France, must first reconsider their approach to European HTS as a fundamental part of the EU market. As copyrights are implemented at the national level and NSOs are the bodies that actually sell standards (Kanevskaja, 2024), member states must direct these bodies to create mechanisms for the non-commercial public distribution of standards reflecting the *Public.Resource.Org* judgment. For these proposals to be effective, a fundamental shift in the policies of EU Member States is necessary.

6 Conclusion

This study unveils how both French authorities and AFNOR respond when faced with requests to disclose harmonised standards following the *Public.Resource.Org* judgment. In practice, we demonstrate how French public authorities continue to refuse to provide HTS. This leads us to conclude HTS are not freely accessible in France, thus failing to ensure the principle of openness. Future analyses can compare the characteristics of responses across jurisdictions, the different regimes for requesting public documents in each country, and the behaviours of different NSOs.

This study also holds broader implications for public interest law. In particular, the tedious and unclear process faced by the authors in requesting HTS reveals significant gaps in accessibility that a citizen may face when requesting public documents of any form in France. The mechanism for requesting public documents in France is insufficient and the rules for doing so under the CRPA are not followed by the administration in practice. Potential improvements to the CRPA can be drawn from the Netherlands, for example. The Wet open Overheid (WOO) sets stricter guidelines and accountability measures for administrations faced with public document requests. For example, it includes a strict four-week deadline for administrations to respond, which can only be extended with explicit justification, and, unlike the CRPA, it includes provisions that require requests to be forwarded to the competent authority (Ministerie van Binnenlandse Zaken en Koninkrijksrelatie, 2024). Moreover, as highlighted in our recommendations, the CRPA would benefit from a standardized practice of requesting documents from administrations and ensuring that this is in an accessible format.

At the international level, the authors contribute to the debate on the accessibility of the ISO/IEC standards insofar as they are referenced by European legislation (Micklitz, 2023). Indeed, as argued by this study, the principle of openness must apply to harmonised standards with legally binding effects on EU citizens. As there are many cases where ISO standards are either referenced in the OJEU and directly in EU Directives (Micklitz, 2023; Kanevskaja, 2024), these standards must also be made freely accessible. A key example is provided by Micklitz (2023) on the EU Tobacco Directive, which uses ISO standards as the basis for calculating cigarette emissions. It is noted here that the ISO committee developing these technical requirements was predominately composed of members representing the tobacco industry (Micklitz, 2023). Therefore, citizens should have the right to be able to examine and potentially challenge the application of these standards, as they directly create legally binding obligations. While the ISO has engaged in making some standards freely accessible through “read-only” versions of the standards (Kanevskaja, 2024), particularly for those related to AI, these do not meet the standards of openness as defined in the paper. Overall, the authors call for further engagement between the ISO/IEC and European Commission on how to ensure the accessibility of harmonised standards.

Thus, for researchers, these findings suggest that it is not only important to analyze the relevant freedom of information/open data legislation when evaluating government accessibility, but

also to see how it is applied in practice. For activists, the study provides an opportunity for activists to scrutinize the French administrations for not adhering to government accessibility guidelines. Lastly, for policymakers, it suggests that improvements must be made to public access laws to guarantee openness.

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Contributor Statement

Conceptualization, Formal analysis, Investigation, Methodology, validation, visualization, writing – original draft: Erla Maranaku, Lenora Dsouza, Logan Pecht.

Use of AI

During the preparation of this work, the author(s) used Claude AI in order to streamline structure and language. After using this tool/service, the author(s) reviewed, edited, made the content their own and validated the outcome as needed, and take(s) full responsibility for the content of the publication.

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Conflict Of Interest (COI)

There is no conflict of interest

References

- Al-Faruque, F. (2024, March 22). *Expert: Recent ECJ ruling could lead to standards development tumult*. RAPS. <https://www.raps.org/resource/expert-recent-ecj-ruling-could-lead-to-standards-d.html>
- Alemanno, A., & Stefan, O. (2014). Openness at the Court of Justice of the European Union: Toppling a taboo. *Common Market Law Review*, 51(1), 97-139. <https://doi.org/10.54648/cola2014004>
- Bijlmakers, S., Delimatsis, P., Kanevskaia, O., & Wedel, M. (2024). The historical evolution of the European Telecommunications Standards Institute (ETSI): Legitimacy strategies and dynamics. *Innovation: The European Journal of Social Science Research*, 37(5), 1265–1268. <https://doi.org/10.1080/13511610.2024.2432109>
- Commission d'accès aux documents administratifs (CADA). (2019). *Avis 20185529*. <https://www.cada.fr/20185529>
- Casus Consulting. (2025, October 20). *Why Harmonized Standards Are Stuck: ISO/IEC v EU Commission Legal Dispute Explained*. <https://casusconsulting.com/why-european-harmonized-standards-are-stuck-iso-iec-v-eu-commission-access-dispute-explained/>
- Colombo, C., & Eliantonio, M. (2017). Harmonized technical standards as part of EU law: Juridification with a number of unresolved legitimacy concerns?: Case C-613/14 *James Elliot Construction Limited v. Irish Asphalt Limited*, EU:C:2016:821. *Maastricht Journal of European and Comparative Law*, 24(2), 323–340. <https://doi.org/10.1177/1023263X17709753>
- Commission Implementing Regulation (EU) 2025/313 of 17 February 2025 concerning the authorisation of lanthanum carbonate octahydrate as a feed additive for dogs (holder of authorisation: Porus GmbH). (2025). Official Journal of the European Union. https://eur-lex.europa.eu/eli/reg_impl/2025/313/oj/eng
- Conseil d'État. (2002, March 8). Decision No. 9/10 SSR. Retrieved January 30, 2025, from <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000008112066>
- Conseil d'État. (2007, February 22). Decision No. 264541. <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000018259406/>
- Council Resolution 85/C 136/01 of 7 May 1985 on a new approach to technical harmonization and standards. (1985). Official Journal of the European Union, C 136, 1. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum:l21001a>
- Degallaix, L. (2018, June 11). *The Use of Standards in Legislation and Policies: How to ensure a legally-sound and socially-acceptable use of standards by policy-makers in view of the CJEU James Elliott ruling and*

- other court cases. The European Environmental Citizens' Organisation for Standardisation. https://ecostandard.org/news_events/position-paper-the-use-of-standards-in-legislation-and-policies/
- Ducato, R. (2023). Why Harmonised Standards Should Be Open. *IIC - International Review of Intellectual Property and Competition Law*, 54(8), 1173–1178. <https://doi.org/10.1007/s40319-023-01372-1>
- European Commission. (2022, February 2). *New approach to enable global leadership of EU standards promoting values and a resilient, green and digital Single Market*. https://ec.europa.eu/commission/presscorner/detail/en/ip_22_661
- European Commission. (2023, September 6). *Questions and Answers: Digital Markets Act: Ensuring fair and open digital markets*. https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2349
- Frabo SpA v Deutsche Vereinigung des Gas- und Wasserfaches eV (DVGW) — Technisch-Wissenschaftlicher Verein, Case C-171/11. (2012). Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62011CJ0171>
- High-Level Forum on European and International Standards. (2024). Alignment Between European and International Standards (No. Workstream 4).
- James Elliott Construction Limited v Irish Asphalt Limited, Case C-613/14. (2016). Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:62014CJ0613>
- Kanevskaia, O. (2024, October 16). Is it really all about the money? The future of European standardization after PublicResourceOrg. *European Journal of Risk Regulation*, 16(1), 344–351. <https://doi.org/10.1017/err.2024.64>
- Larouche, P., & Baron, J. (2023). *The European Standardisation System at a Crossroads*. Centre on Regulation in Europe (CERRE). https://www.law.northwestern.edu/research-faculty/clbe/events/standardization/documents/cerre_european_standardisation_system_at_a_crossroads.pdf
- Lundqvist, B. (2017). European harmonised Standards as Part of EU Law: The Implications of the James Elliott Case for Copyright Protection and, Possibly, for EU Competition Law. *Legal Issues of Economic Integration*, 44, 421–435. <https://doi.org/10.54648/LEIE2017024>
- Mendis, S., & Kanevskaia, O. (2024, July 22). harmonised technical standards under EU copyright: The Public.Resource.Org judgment. The IPKat. <https://ipkitten.blogspot.com/2024/07/harmonised-technical-standards-under-eu.html>
- Meroni & Co., Industrie Metallurgiche, S.A.S. v High Authority of the European Coal and Steel Community, Case 9-56. (1958). Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:61956CJ0009>
- Micklitz, H-W. (2023). *The Role of Standards in Future EU Digital Policy Legislation: A Consumer Perspective*. ANEC and BEUC. https://www.beuc.eu/sites/default/files/publications/BEUC-X-2023-096_The_Role_of_Standards_in_Future_EU_Digital_Policy_Legislation.pdf
- Ministerie van Binnenlandse Zaken en Koninkrijksrelatie. (2024). Woo-Instructie Voor Het Behandelen van Wob-Verzoeken. Programma Open Overheid. [https://open.overheid.nl/documenten/928238ad-9542-441b-912f-a4799dee8978/#:~:text=Een%20nieuw%20tijdperk%20van%20openbaarheid,ontwikkelingen%20\(Version%20'24\).](https://open.overheid.nl/documenten/928238ad-9542-441b-912f-a4799dee8978/#:~:text=Een%20nieuw%20tijdperk%20van%20openbaarheid,ontwikkelingen%20(Version%20'24).)
- Public.Resource.Org. (2025). <https://public.resource.org/>
- Regulation 2023/1230. Regulation (EU) 2023/1230 of the European Parliament and of the Council of 14 June 2023 on machinery and repealing Directive 2006/42/EC of the European Parliament and of the Council and Council Directive 73/361/EEC. (2023). Official Journal of the European Union, L 165, 1. <https://eur-lex.europa.eu/eli/reg/2023/1230/oj/eng>
- Sáenz-Nuño, M. A., Montes Gan, M. V., Carrasquilla, M., Salas Labayen, M. R., & Pérez Mallada, N. (2025, June). Gamification for standardization: Interactive educational tools for enhancing learning outcomes. In K. Jacobs & H. Alexander Parada Gelvez (Eds.), *29th Annual Standardisation Conference: EURAS 2025*. Madrid, Spain.
- Schepel, H. (2005). Private regulation in European public law. In H. Schepel (Ed.), *The constitution of private governance: Product standards in the regulation of integrating markets* (pp. 225–258). Bloomsbury Publishing.
- Schoechele, T. (2003). Digital enclosure: The privatization of standards and standardization. *ESSDERC 2003. Proceedings of the 33rd European Solid-State Device Research - ESSDERC '03 (IEEE Cat. No. 03EX704)*, 229–240. <https://doi.org/10.1109/SIIT.2003.1251210>
- SFS Finnish Standards. (2025). *The National Standardization Organisation in Finland*. <https://sfs.fi/en/sfs-finnish-standards/>
- Soroiu, A. (2024, March 19). *The Fall of The Great Paywall for EU Harmonised Standards*. Verfassungsblog. <https://doi.org/10.59704/5a60ea5d42c2b059>

- Volpato, A. (2017). The harmonised standards before the ECJ: James Elliott Construction. *Common Market Law Review*, 54(2), 591–603. <https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\COLA\COLA2017036.pdf>
- Waeyenberge, A. V. (2018). La normalisation technique en Europe. L’Empire (du droit) contre-attaque. *Revue internationale de droit économique*, 3, 305–317. <https://doi.org/10.3917/ride.323.0305>
- Zacek-Gebele, D., Windeler-Frick, J., & Wilrich, T. (2025, February 12). Standards topicality vs. Presumption of conformity. IBF Solutions. <https://www.ibf-solutions.com/en/seminars-and-news/news/standards-topicality-vs-presumption-of-conformity>

Appendix A: Draft Request for Free Access to harmonised Standards Across Various Public Administrations

English Version:

Madam, Sir,

I am writing to you as part of a request for access to public information held by the administration under Law No. 78-753 of July 17, 1977.

Full name:

Email:

Address:

I would like to ask you to provide me with the information requested below in PDF format and by the same e-mail from which you receive this request.

These are harmonised standards published in the Official Journal of the European Communities and transposed into French law. Please send me an exact copy of the following standards:

1. Number: NF EN ...
2. Title:
3. Date (version) of the decision:
4. The French Directive/Law: Directive ...

I would like to thank you for accepting this request or, if necessary, for referring me to the appropriate department.

I remain at your disposal for any further information.

Please accept, Madam, Sir, the expression of my distinguished greetings.

French Version :

Madame, Monsieur,

Je vous adresse dans le cadre d'une demande d'accès à l'information publique détenue par l'administration selon la loi n°78-753 du 17 juillet 1978.

Nom et prénom :

Courriel :

Adresse :

Je voudrais vous demander de me fournir l'information requise ci-dessous en PDF et par ce même courrier électronique dont vous recevez cette requête.

Ce sont des standards harmonisés publiés au Journal officiel européen et transposés dans la législation française. Je vous prie de me faire parvenir une copie exacte par document des standards suivants :

1. Numéro : NF EN ...
2. Titre :
3. Date (version) :
4. La directive / loi française : Directive ...

Je vous remercie de bien vouloir accéder à cette demande ou, le cas échéant, de me rediriger vers le service compétent en la matière.

Je reste à votre disposition pour toute information complémentaire

Je vous prie d'agréer, Madame, Monsieur, l'expression de mes salutations distinguées.

Appendix B : Draft Request to AFNOR for Free Access to harmonised Standards

English version

Hello,

I'm writing to you in connection with a request for harmonised European standards. I am making this request in accordance with law n°78-753 du 17 juillet 1978. Specifically, I request the following documents in an accessible PDF format with text to speech available for the following standards:

1. NF EN 16898/IN1 - Équipements auxiliaires pour brûleurs à gaz et appareils à gaz - Filtres à gaz ayant une pression de service maximale inférieure ou égale à 600 kPa
2. NF EN 60436/A11 - Lave-vaisselle électriques à usage domestique - Méthodes de mesure de l'aptitude à la fonction

3. NF EN 30-2-1 - Appareils de cuisson domestiques utilisant les combustibles gazeux
- Partie 2-1 : utilisation rationnelle de l'énergie - Généralités

According to L311-1 of the CRPA, public administrations must deliver administrative documents on request. From my understanding, you hold these standards and are thus the appropriate body to request these standards. Furthermore, as confirmed by Cour de justice de l'Union européenne case Case C-588/21 P, harmonised standards must be disclosed since those standards form part of EU law.

I look forward to hearing your response.

Sincerely,

French version

Je vous écris dans le cadre d'une demande de normes européennes harmonisées, conformément à la loi n°78-753 du 17 juillet 1978. Concrètement, je demande les documents suivants dans un format PDF accessible avec synthèse vocale disponible pour les normes suivantes :

1. NF EN 16898/IN1 - Équipements auxiliaires pour brûleurs à gaz et appareils à gaz - Filtres à gaz ayant une pression de service maximale inférieure ou égale à 600 kPa
2. NF EN 60436/A11 - Lave-vaisselle électriques à usage domestique - Méthodes de mesure de l'aptitude à la fonction
3. NF EN 30-2-1 - Appareils de cuisson domestiques utilisant les combustibles gazeux - Partie 2-1 : utilisation rationnelle de l'énergie - Généralités

Selon L311-1 du CRPA, les administrations publiques doivent délivrer des documents administratifs sur demande. D'après ce que je comprends, vous détenez ces normes et êtes donc l'organisme approprié pour demander ces normes. Selon l'affaire C-588/21 P de la Cour de justice de l'Union européenne, les normes harmonisées doivent être divulguées puisque ces normes font partie du droit de l'UE.

Dans l'attente de votre réponse, je vous prie d'agréer, Madame, Monsieur, l'expression de mes salutations distinguées,

Appendix C: Draft of our appeal to CADA in early December

English Version

Name:

Email Address:

Full Address:

Administrations:

1. Cour des Comptes - 13 rue Cambon, 75001 PARIS
2. Ministère de l'Économie, des Finances et de l'Industrie - Télédoc 353-6, rue Louise Weiss, 75703 Paris CEDEX 13
3. Agence de l'Environnement et de la Maîtrise de l'Énergie (ADEME) - 20 avenue du Grésillé BP 90 406, 49004 Angers CEDEX 01
4. Ministère de la Transition Écologique et Solidaire - Grande Arche - Paroi sud, 92055 Paris La Defense CEDEX
5. Conseil Régional d'Ile-de-France, 2 rue Simone Veil, 93400 Saint-Ouen
6. Ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation - 142 rue du Bac, 75357 Paris SP 07

Object of Demand: Access to harmonised Standards

Date of Demand to Administration: October 4th

Hello,

This appeal is in regard to a request made for harmonised standards to different administrative offices, to receive them free of charge and in an accessible format. I have an interest in consulting these harmonised standards for research purposes and out of personal concern as a consumer. Specifically, I requested three harmonised standards on October 4th and 5th listed below to different administrative offices:

1. NF EN 16898/IN1 : Équipements auxiliaires pour brûleurs à gaz et appareils à gaz - Filtres à gaz ayant une pression de service maximale inférieure ou égale à 600 kPa | 4 & 5 octobre | ministère de l'Économie, des finances et de l'industrie et cours des comptes
2. NF EN 60436/A11 : Lave-vaisselle électriques à usage domestique - Méthodes de mesure de l'aptitude à la fonction | 4 octobre | Agence de l'environnement et de la maîtrise de l'énergie (ADEME)
3. NF EN 30-2-1: Appareils de cuisson domestiques utilisant les combustibles gazeux - Partie 2-1 : utilisation rationnelle de l'énergie - Généralités | 4 octobre | Conseil régional d'Ile-de-France

Thus far, I have not received any response from the Agence de l'environnement et de la maîtrise de l'énergie for NF EN 60436/A11. For NF EN 30-2-1, I received a response informing me that the agency did not have the competence to fulfill the request and on October 22nd they referred me to contact the Ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation. I have not received a response from this administration thus far. On October 28th, I made a request to the Ministère de la Transition écologique et solidaire for NF EN 60436/A11, on October 29th they informed me I could purchase the standard on the AFNOR website.

Under Article L112-3 of the Code des relations entre le public et l'administration, the administration is obliged to send a receipt acknowledging the request. Therefore, the deadline to send a receipt acknowledging the request for the Ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation is 28 Novembre, which has passed. Under Article R311-12 of the code des relations entre le public et l'administration, silence from the administration

after one month constitutes a refusal of the request. According to Article R341 du CRPA of the same code, I may apply for an appeal after one month of making the request.

For standard NF EN 16898/IN1, the Ministère de l'Économie, des Finances et de l'Industrie informed me that these standards are the subject of public diffusion by being listed for a price on the AFNOR website that covers their development and distribution costs. Therefore, they claimed that in accordance with Article L. 311-2 du Code des Relations entre le Public et l'Administration, there is no right to communication of AFNOR standards.

However, I believe that the administration is mistaken in denying or ignoring my request to consult these harmonised standards under the CRPA. Specifically, in Case C-588 21 P, the CJEU held that harmonised standards form part of EU law “peuvent être rendues opposables aux particuliers en général pour autant qu’elles aient elles-mêmes fait l’objet d’une publication au Journal officiel de l’Union européenne”. The court also establishes that the principle of transparency “est indissociablement lié au principe d’ouverture”, and that as these standards form part of EU law and have binding effects, there is a public interest in disclosing these standards. The court concluded that there is an overriding public interest in the disclosure of harmonised standards. Specifically, “des principes de l’État de droit, de transparence, d’ouverture et de bonne gouvernance, et justifiant la divulgation des normes demandées harmonisées, ces dernières faisant partie du droit de l’Union en raison de leurs effets juridiques”. Given that the standards requested are EU harmonised standards transposed into French law, there is an overriding interest in my access to these standards that overrule the commercial interests of AFNOR. This is the case as the high costs of the standards prohibit me from being able to access them. Thus, the administration is obligated to provide me with these standards free of charge and in an accessible format.

Given that I have not received any adequate response from the administrations for any of the requested standards, I am seeking guidance on what the next steps should be.

I request that you send me an electronic receipt of this request. I also remind you that I must receive a response to this request within one month under Article R343-3 du CRPA.

Sincerely,

French Version

Nom:

Adresse courriel :

Adresse :

Administrations :

1. Cour des Comptes - 13 rue Cambon, 75001 PARIS
2. Ministère de l'Économie, des Finances et de l'Industrie - Télédocus 353-6, rue Louise Weiss, 75703 Paris CEDEX 13
3. Agence de l'Environnement et de la Maîtrise de l'Énergie (ADEME) - 20 avenue du Grésillé BP 90 406, 49004 Angers CEDEX 01
4. Ministère de la Transition Écologique et Solidaire - Grande Arche - Paroi sud, 92055 Paris La Defense CEDEX

5. Conseil Régional d'Ile-de-France, 2 rue Simone Veil, 93400 Saint-Ouen
6. Ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation - 142 rue du Bac, 75357 Paris SP 07

Objet de la Demande : Accès aux normes harmonisées

Date de la Demande à l'Administration : 4 octobre

Bonjour,

Cet appel fait suite à une demande de normes harmonisées auprès de différents services administratifs, afin de les recevoir gratuitement et dans un format accessible. Je souhaite consulter ces normes harmonisées à des fins de recherche et par préoccupation personnelle en tant que consommateur. En particulier, j'ai demandé d'accès à trois normes harmonisées les 4 et 5 octobre à divers bureaux administratifs :

1. NF EN 16898/IN1: Équipements auxiliaires pour brûleurs à gaz et appareils à gaz - Filtres à gaz ayant une pression de service maximale inférieure ou égale à 600 kPa | 4 et 5 octobre | ministère de l'Économie, des finances et de l'industrie et cours des comptes
2. NF EN 60436/A11: Lave-vaisselle électriques à usage domestique - Méthodes de mesure de l'aptitude à la fonction | 4 octobre | Agence de l'environnement et de la maîtrise de l'énergie (ADEME)
3. NF EN 30-2-1: Appareils de cuisson domestiques utilisant les combustibles gazeux - Partie 2-1: utilisation rationnelle de l'énergie - Généralités | 4 Octobre | Conseil régional d'Ile-de-France

A ce jour, je n'ai reçu aucune réponse de l'Agence de l'Environnement et de la Maîtrise de l'Énergie pour la norme NF EN 60436/A11. Pour la norme NF EN 30-2-1, j'ai reçu une réponse m'informant que l'agence n'avait pas la compétence pour répondre à la demande et le 22 octobre ils m'ont renvoyé à contacter le ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation. Pour la norme harmonisée NF EN 30-2-1, le Conseil Régional d'Ile-de-France dit le 15 octobre qu'ils n'avait pas la compétence pour répondre à la demande et le 22 Octobre ils m'ont renvoyé à contacter me Ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation. Je n'ai pas reçu de réponse de cette administration à ce jour. Le 28 octobre, j'ai fait une demande au Ministère de la Transition écologique et solidaire pour la NF EN 60436/A11, le 29 octobre ils m'ont informé que je pouvais acheter la norme sur le site de l'AFNOR, ce qui ne correspond pas à ma demande initiale.

Selon l'article L112-3 du Code des relations entre le public et l'administration, l'administration est tenue d'envoyer un accusé de réception de la demande. Ainsi, la date limite d'envoi d'un accusé de réception de la demande pour le ministère de l'Enseignement Supérieur de la Recherche et de l'Innovation est le 28 novembre, date dépassée. En vertu de l'article R311-12 du CRPA, le silence de l'administration au bout d'un mois vaut rejet de la demande. Selon l'article R341 du CRPA du même code, je peux faire un recours après un mois de la demande.

Pour la norme NF EN 16898/IN1, le ministère de l'Économie, des Finances et de l'Industrie m'a indiqué que ces normes font l'objet d'une diffusion publique en étant répertoriées pour un prix sur le site internet d'AFNOR qui couvre leurs coûts d'élaboration et de diffusion. Par

conséquent, ils ont affirmé que conformément à l'article L. 311-2 du CRPA, il n'existe pas de droit à la communication des normes AFNOR.

Cependant, je pense que l'administration a tort de refuser ou d'ignorer ma demande de consultation de ces normes harmonisées. Plus précisément, dans l'affaire C-588 21 P, la CJUE a estimé que les normes harmonisées faisant partie du droit de l'UE « peuvent être rendues opposables aux particuliers en général pour autant qu'elles aient elles-mêmes fait l'objet d'une publication au Journal officiel de l'Union européenne ». La Cour établit également que le principe de transparence « est indissociablement lié au principe d'ouverture », et que comme ces normes font partie du droit de l'UE et ont des effets contraignants, il y a un intérêt public à divulguer ces normes. La Cour a conclu qu'il existe un intérêt public supérieur à la divulgation des normes harmonisées. Plus précisément, « des principes de l'État de droit, de transparence, d'ouverture et de bonne gouvernance, et justifiant la divulgation des normes demandées harmonisées, ces dernières faisant partie du droit de l'Union en raison de leurs effets juridiques ». Étant donné que les normes demandées sont des normes harmonisées de l'UE transposées en droit français, il existe un intérêt supérieur à ce que j'aie accès à ces normes qui l'emporte sur les intérêts commerciaux d'AFNOR. En effet, le coût élevé des normes m'empêche d'y avoir accès. Ainsi, l'administration est tenue de me fournir ces normes gratuitement et dans un format accessible.

En l'absence de réponses adéquates des administrations, je vous serais reconnaissant de bien vouloir m'orienter sur les prochaines étapes à suivre.

Je vous demande de m'envoyer un accusé de réception électronique de cette demande. Je vous rappelle également que je dois recevoir une réponse à cette demande dans un délai d'un mois en vertu de l'article R343-3 du CRPA.

Je vous prie d'agréer, Madame, Monsieur, l'expression de mes salutations distinguées,

Appendix D: Prices of standards requested

Standard Number	Initial Administration Requested	Cost
NF EN 16898/IN1	Ministère de l'économie, des finances et de l'industrie	48.34
NF EN 60436/A11	Agence de l'environnement et de la maîtrise de l'énergie (ADEME)	113.26
NF EN 30-2-1	Conseil régional d'Ile-de-France	124.98
NF EN ISO 14001	Agence de l'environnement et de la maîtrise de l'énergie (ADEME)	334.77
NF EN 60350-1	Mairie de Paris	566.43
NF EN 62196-1	Mairie de Paris	608.94
NF EN ISO 11137-1	Agence nationale de sécurité du médicament et des produits de santé	245.44
NF EN ISO 11850/A2	Centre National de la Propriété Forestière	187.47
NF EN 10207	Conseil régional d'Ile-de-France	268.2
NF EN 10340	Conseil régional d'Ile-de-France	234.21
NF EN IEC 61851-1	Agence de l'environnement et de la maîtrise de l'énergie (ADEME)	748.68
		245.44