

Access to Documents

Essential elements

2 May 2022

DG MOVE.A4 – Legal Unit

Access to Documents – Overview

- Any citizen of the Union, or any person residing or having their registered office in a Member State, **has a right of access to documents under Regulation 1049/2001**. Commission has **15 working days** to reply.
- Citizens not residing in a Member State and legal persons not registered in a Member State **enjoy the same right of access**, but cannot lay complaints to the Ombudsman on the handling of the application.
- Regulation 1049/2001 applies only to requests for access to **existing documents**, whatever their medium (written on paper, stored in electronic form or as a sound, visual or audio-visual recording), if they contain important information which is not short-lived and/or may involve action or follow-up by the Commission or one of its departments.

Access to Documents – What to do?

- **Confirm that the request falls within the remit of your unit.** If not, please contact the MOVE Access Documents Team as soon as possible.
- **Attribute a case-handler.**
- **Preliminary analysis of the request.** If not sufficiently clear, a request for clarifications should be sent to the applicant.
- **Identification of the documents.** Documents should at least be searched on ARES and other document management systems (BASIS, etc.)
- **Draw up a full list of the documents.** Including their ARES or equivalent registration number, author, addressee, subject matter or title and date.

Access to Documents – What to do? (2)

- **After the identification of the documents:**
 - If you think the scope of the request is too large to be handled within the extended 15 + 15 working-day deadline: inform the applicant in writing, referring to Article 6(3) of Regulation (EC) No 1049/2001, and confer with a view to finding a fair solution. See standard letters: <https://myintracomm.ec.europa.eu/sg/docinter/Pages/letters.aspx>
 - Closely examine the content of each document to determine whether disclosure is prevented by Article 4 of Regulation (EC) No 1049/2001.
- **If the documents originate from third parties:** Consultation on whether the document may be disclosed, unless it is clear that the document may – or must not – be released. Member States should be consulted as well.

Access to Documents – Personal data

- **In case the document contains personal data.** Personal data should be redacted, closely following all the steps mentioned in the SG guidance:
https://myintracomm.ec.europa.eu/sg/docinter/Documents/ATD_Info5_FR.pdf
 - A reply should be prepared following the template ‘Partial access personal data redacted EU EEA third countries’. All templates are available in
<https://myintracomm.ec.europa.eu/sg/docinter/Pages/letters.aspx>
 - Personal data includes names, signatures, initials, contact details, addresses and functions, to the extent that these enable the individuals to be identified
 - The names and functions of outside individuals who are public figures acting in their public capacity, of Commissioners and their Cabinet members (AD officials), and of staff in senior management positions of the Commission may be disclosed.

Access to Documents – Refusal

- **Access to a document may be refused, partly or in full, under the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001.**
 - Negative replies are to be signed by the Director-General
 - Any exception must be adequately justified. The applicant will have the right to present a confirmatory application to SG if he disagrees with the refusal
 - Relevant templates are available for partially negative replies, fully negative replies and for negative replies based on the opinion of consulted third parties
- **In case of doubts regarding the scope and applicability of the exceptions, please contact the MOVE Access Documents Team.**

Access to Documents – Miscellaneous

- **If the document does not contain personal data and can be disclosed.** A reply should be prepared following the template ‘Positive reply’.
- **If no documents are identified.** A reply should be prepared following the template ‘No documents held’, to be signed by the Director-General.
- **If you are not able to meet the 15-day deadline.** A letter must be sent notifying a 15-day extension, following the template ‘Holding reply’. Reasons must be provided. **The deadline can only be extended once.**
- **Replies are submitted through ARES and should be translated into the language of the application.**

Access to Documents – Contacts

- In case of procedural questions, such as those relating to ARES, attribution of requests and deadlines, and in case of **positive replies, holding replies and third-party consultations**, please consult [REDACTED]
[REDACTED]
- In case of legal questions, such as those related to the exceptions applicable under Regulation 1049/2001, and in case of **negative replies or replies with personal data redacted**, please consult [REDACTED]
[REDACTED]
- The access to documents team may also be reached through the functional mailbox MOVE-ACCES-DOCUMENTS@ec.europa.eu

Thank you



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