Fiche 13: Multi-DG requests

Main issues:

The Commission regularly receives requests from applicants asking, under Regulation 1049/2001, for access to documents covering topics falling under the responsibility of more than one DG.

In such cases, the horizontal access-to-documents unit within the Secretariat-General (SG.C.1) splits such multi-DG requests, whereby each part is attributed to the respective DG/service under a separate Gestdem reference number. Each DG/service provides its own, separate reply which relates only to the documents held by that DG or service.

There is a need to avoid inconsistencies in the replies provided, both as regards the identification of documents and the substance of the reply. Examples of such possible inconsistencies are situations where:

- documents exchanged between DGs/services to which the request was attributed are identified only by one of them, although it is clear that they are held by several DGs/services (i.e. by the author DG/service and its addressee/s);
- partial access to the identified documents is granted by one DG/service, while another DG/service refuses access thereto in their entirety without there being an objective reason for such a differentiated treatment.

Such inconsistencies can cause severe reputational damage to the Commission. Consequently, to avoid/mitigate the risk of reputational damage, there is a need for systematic coordination of multi-DG requests.

Proposed administrative practice:

Step 1: Choice of, and attribution to, a 'lead service'

As regards requests which it receives directly via the automatic web form or by e-mail, unit SG.C.1 will, at the moment of the formal registration and attribution of the access-to-documents request, designate a DG or service which should take up the role of the 'lead service' ensuring the coordination of a given (multi-DG) request and the 'associated services', i.e. the DGs or services to which parts of the request were addressed. The information regarding the designation of the lead service and the associated services will be circulated by email by the SG to the DGs/services concerned.

The choice of lead service and the associated services concerned will be made on a case-by-case basis, depending on the scope of the request (i.e. the policy portfolio to which it relates, the DG/service to which the applicant explicitly addresses his/her request, SG is among the addressees of the request, etc.). In general, the role of the 'lead service' will be attributed to the DG/service responsible for the policy area to which the request relates, or the relevant policy coordination unit with the SG.

It may happen that applicants send their (multiple) requests regarding the same topic directly to the DGs/services concerned, without any indication that similar requests were submitted to other DGs/services (e.g. the request relates to a topic falling under the responsibility of a few DGs or concerns the policy area of another DG). A DG/service which has reasons to suspect that this is the case should verify this by means of the available search tools offered by Gestdem. If it has been established that similar (or the same) request has been submitted in parallel to other DGs/services, the DG/service concerned should inform unit SG.C.1, so that the latter can propose which DG should take up the role of the lead service and associated services.

Acting as the lead service entails ensuring there are no gaps or overlaps in the identification of documents and that the

1 The possibility to incorporate this issue into the Gestdem workflow is being examined.
2 Unit SG.C.1 is not in a position to take on such a coordinating role, as it may be called upon to carry out an independent review of the initial reply in case of a confirmatory application.
3 Each DG has access to the requests attributed to other DGs.
replies follow a coherent approach, each DG/service remaining, in principle, responsible for assessing the documents and providing the reply to the applicant regarding its own documents. In some cases, it can be sufficient for the lead service to inform the other DGs/services of the approach taken.

The lead service may request unit SG.C.1 to re-attribute this coordinating role to another DG/service, provided that it supports its request with valid reasons.

Step 2: Definition of the scope of the request

Where the scope of the request is not sufficiently clear, or in case of a very wide scope of the request in terms of the number of pages, documents and/or subjects covered, the lead service liaises with the associated services as regards the clarification request to be sent to the applicant and/or the proposal for the fair solution, where applicable. The aim is to determine whether it is preferable to send one single clarification request or fair solution proposal on behalf of all DGs/services concerned, rather than separate requests or proposals.

Even if the request does not require any communication with the applicant in order to clarify its scope, the lead DG might still want to liaise with the associated services as regards its own interpretation of the request’s scope.

Step 3: Identification, definition of the (general) line to be taken and substantive assessment of the documents

Every DG/service to which a request is attributed (be it the lead service or the associated service) proceeds with the standard workflow for handling requests under Regulation 1049/2001, starting with the identification of documents and the assessment thereof from the point of view of the exceptions in Article 4 of the Regulation.

However, the lead service should circulate to all associated services, the list of documents which it identified as falling under the scope of its part of the request, as soon as such a list has been established.

The associated services should circulate their own lists of documents to the other concerned DGs/services and the lead service. The associated services to which the request is attributed should not send their replies to the applicant before their own lists of documents, prepared locally, have been compared and cross-checked with the list circulated by the lead service and, where relevant, with those of the associated services. The lead service should double-check, to the extent possible, that there are no inconsistencies, gaps and/or overlaps in the respective lists.

The lead service should, as far as possible, inform and liaise with the other DGs/services on the approach it intends to follow as regards the substantive assessment of the documents (i.e. does it intend to grant access? Which exceptions does it intend to invoke?).

Step 4: Elimination of inconsistencies

Where appropriate and to the extent possible, the lists of documents and the approach regarding their public release should be aligned between the lead service and the associated services.

As regards the lists of documents, every DG/service should, in principle, only include those document(s) of which it was the author in its list, so as to avoid inconsistencies, gaps and/or overlaps between the respective lists. The individual replies provided by each DG/service should include a relevant clause informing the applicant about the way in which the request was split between the different DGs/services involved.

The associated services should follow as far as possible the approach of the lead service as regards the documents which reflect the views of the lead service on the policy area under its responsibility. In case of disagreement between the lead service and the associated services regarding the line to be taken, the associated DG/service should inform the lead service that it wishes to deviate from the line proposed by the latter.

If the diverging views between the services cannot be resolved, the responsibility to decide should be left to the lead service.

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4 In some cases, such as those relating to processes involving gathering inputs from other DGs/services (e.g. inter-service consultation organised by a specific DG), it is advisable that the latter DG replies to the request after consulting the DGs which provided contributions.
5 E.g. DGs/services involved may decide to discuss at meeting(s) between the DGs/services involved.
6 Exceptionally, the lead DG/service may extend its list to documents drafted by other DGs/services, for instance in cases where the latter documents consist of input provided by the said DGs/services into an interservice process organised by the former DG/service.
7 See the modified templates of the replies.
whose actions on the policy area may be affected by the approach taken on the disclosure of documents, after consulting, where appropriate, the policy unit in the SG dealing with the subject matter at hand and/or the Legal Service.

The lead and the associated services should send each other copies of their replies for information.

**Case-law:**

N/A