Fiche 17: ‘Erga omnes’ rule

Main issues:

Regulation 1049/2001 regulates public access to documents. Access granted in response to an application is to be considered as disclosure to the public at large (erga omnes).

It follows that it does not in principle impose any conditions as to the use that can be made of documents which have been (fully or partially) released under its framework. Its personal scope as defined by the Commission’s Implementing Rules extends to any natural or legal person, regardless of their country of residence or establishment. Furthermore, applicants are in principle not obliged to state reasons for their application.

Current administrative practice:

- The Commission cannot oppose itself to the communication of a document legally released under Regulation 1049/2001, to other applicants.
- The right of access cannot make dependent on the nature of the particular interest which the applicant may or may not have in obtaining the documents requested.
- The targeted dispatch of a document to a closed circle of addresses, regardless of their number or their collective nature (e.g. trade unions), cannot be assimilated with erga omnes access.
- Similarly, the production of documents before a court cannot be equated with public disclosure for the purpose of Regulation 1049/2001.

Case law:

- Joined cases T-"&:'&§ and T-435/16, VG v Commission, Judgment of the General Court of 27 November 2018
- Case T-439/08, Agapiou Joséphidès v Commission and EACEA, Judgment of the General Court of 21 October 2010
- Case T-300/10, Internationaler Hilfsfonds v Commission, Judgment of the General Court of 22 May 2012
- Case C-399/13 P, Stichting Corporate Europe Observatory v Commission, Judgment of the Court of Justice of 4 June 2015
- Case T-74/16, Pagyprios organismos ageladotrofon v Commission, Judgment of the General Court of 8 February 2018
- Joined Cases T-424/14 and T-425/14, ClientEarth v Commission, judgment of 13 November 2015

Reference documents/links:

- Examples of confirmatory decisions and a summary of relevant case-law are available on the Commission's access-to-documents webpages on My Intracomm:
