



Brussels, June 2016

**Subject: Working arrangements of the 'Access to Documents' network**

This short note gives an outline of the process of dealing with Access to Documents requests within DG CLIMA as well as the important benchmarks and guidelines with regard to the application of the Regulation No.1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents.

The proposed approach is based on the need for overall coordination and coherence of the work of DG CLIMA as well as to be able to cope efficiently with a rising number of files while reducing to the extent possible the administrative burden on the DG. Given the complexity of some of the requests and the prescribed deadline for the reply to the applicant in the language of the request in accordance with the Art.7 (1) of the Reg.1049/2001, the cooperation between CLIMA.001 and the units is essential. This is why DG CLIMA set up a solid network of ADO correspondents (one correspondent per unit, one in the Cabinet and one dealing with archived documents in SRD.1).

CLIMA.001 is responsible for the coordination of the requests for access to documents received via the functional mailbox CLIMA ACCESS DOCUMENTS (CLIMA-ACCESS-DOCUMENTS@ec.europa.eu) within DG CLIMA. In order to treat applications for access to documents as efficiently and swiftly as possible and keep a sound record of actions, we recommend all contacts between the ADO coordinator in CLIMA.DG.001 and units to continue passing via the CLIMA ADO functional mailbox.

## **1. ATTRIBUTIONS**

CLIMA.001 will register the incoming ADO request in Gestdem database if it is received directly by DG CLIMA, inform the relevant ADO correspondents in the units and send the acknowledgment receipt to the applicant. If the ADO request is received by SG via the electronic form, SG will reattribute the request to the relevant DG and CLIMA.001 will then inform relevant ADO correspondents on the incoming request. If the request arrived directly to the unit, CLIMA.001 should be informed immediately so that the request can be registered ASAP in the Gestdem database by the ADO coordinator.

## **2. ASSESSMENT AND ANALYSES OF THE DOCUMENTS**

Any document (understood as *'any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's*

*sphere of responsibility*<sup>1)</sup>) held by the Commission are, in principle, subject to the right of access. This also includes e-mails and documents received by third parties as far as they fulfil the criteria set forth in Article 3 (a) of Regulation 1049/2001 "concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility". No type of document can be automatically excluded from access (not even the documents marked as 'confidential' or 'sensitive'). Therefore, each document has to be examined on a case-by case basis, with regard to its actual content.

However, in case an initial application is worded in imprecise terms which do not enable the documents falling under the scope of the application to be sufficiently easily identified, 001 will get back to the applicant, as soon as possible, and ask him/her to further clarify his/her request pursuant to Article 6(2). SG's intranet provides a template of such clarification request.

The ADO correspondent in the unit should act as the contact person for the ADO coordinator. He/she will follow up the processing of requests attributed to their unit, will be the first contact point for questions of colleagues on the handling of ADO applications, monitor deadlines and carry out a first compliance checks based on the "check-list" for negative replies elaborated in compliance with the note by SG from 21 January 2011<sup>2</sup>.

The ADO correspondent will analyse the request and send the documents identified to CLIMA.001. The ADO correspondent should consult his/her Head of Unit about the line to take before the relevant documents are submitted to the ADO coordinator. Should the reply to the request be (partially) negative, the units should provide substance for their reasoning in accordance with one of the exceptions in the Article 4 of the Regulation 1049/2001. In case of doubt, the unit can refer to the ADO coordinator to seek legal advice. The ADO coordinator can himself/herself seek legal advice at SG.

In view of the tight deadline for reply to the applicant (15 working days from the registration of the application), the units should provide CLIMA.001 with their inputs within the shortest possible delay. CLIMA.001 will then prepare the reply to the applicant. Failure to reply within the prescribed time limits is equivalent to refusing the access. In exceptional cases; the deadline to handle the application can be extended to 15 other working days. Should it be the case, the unit will provide CLIMA 001 with the reasons of the delay and CLIMA 001 is in charge of informing the applicant that the deadline has been extended.

### **3. FILING OF THE DOCUMENTS AND RESPONSE TO THE APPLICANT**

Registration and filing of the documents must be appropriate and reliable in conformity with e-domec rules. An appropriate registration and filing system is essential for the handling of access to documents requests, as the existing documents registers (e.g. Ares; Vista, etc.) are the starting point for identifying the requested documents. Exhaustive guidance on the registration of documents can be found on the following page: <https://myintracomm.ec.europa.eu/sg/dm/basics/Pages/registration.aspx>.

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<sup>1</sup> See Article 3(a) of Regulation 1049/2001.

<sup>2</sup> See [https://myintracomm.ec.europa.eu/sg/docinter/Documents/Note-DAY\\_ROMERO-Acces\\_documents-21012011.pdf](https://myintracomm.ec.europa.eu/sg/docinter/Documents/Note-DAY_ROMERO-Acces_documents-21012011.pdf)

If the reply to the applicant is negative or partially negative, CLIMA.001 ensures the quality of the reasoning for giving no or partial access to the document/documents requested. A list of documents in form of table must be included for all such replies.

The ADO coordinator in CLIMA.001 ensures communication with the external applicants and coordinates the handling of the requests with the units, as well as the contacts with the Cabinet, and any other associated DG, MS as well as any other third party consultation concerning the disclosure of documents in accordance with Art.4(4) of the Regulation 1049/2001<sup>3</sup>.

In case of requests which contain personal data of the 3rd parties (such as names, emails and telephone numbers), CLIMA.001 shall blank out such personal data, using the suitable Adobe Professional tools, unless these can be disclosed in accordance with Article 18 of the Regulation 45/2001 on personal data protection.<sup>4</sup>

The final reply is then prepared by CLIMA.001. (partially) negative replies except the partially negative with redaction of personal data only for which the head of 001 can sign) must be signed by the Director-General.

In case of a positive reply to the request, CLIMA.001 will sign. No signataire is needed in such case.

(Partially) negative replies are to be sent to the applicant both electronically and per postal mail, via registered mail with acknowledgement of receipt.

Throughout the handling of the request, correspondence either with the applicant or with third parties in case of a consultation has to be duly registered in Ares and uploaded in the Gestdem database.

#### **4. CONFIRMATORY REQUESTS**

In case of confirmatory application, SG will ask DG CLIMA to provide input in order to help them assessing the request. The DG's inputs have to respect this [guidance note issued by SG](#).

CLIMA 001 coordinates the input of DG CLIMA to SG and remains the main contact point during the entire handling of the confirmatory application.

Yours sincerely,



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<sup>3</sup> Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents

<sup>4</sup> Regulation (EC) No. 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data