



Management of applications for access to the JRC documents

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0.1	9 July 2010	[Redacted]	Prepared the first draft for Head's of Legal Advice and Internal Control unit, Assistant's to the DDG and Corporate Quality Manager's comments	
1.0			Description prepared for Director's approval	
2.0	25.01.2011	[Redacted]	Procedure description updated according to Note ARES(2011)69210 "Note to Directors General – Handling of applications for public access to documents"	
3.0	20.11.2012	[Redacted]	Updated the procedure	

1. Context of the procedure

1.1 Purpose and aim

The purpose of the procedure is to ensure that Applications for access to documents received by the JRC services are handled in a timely and efficient manner and in conformity with the relevant legal requirements. The procedure establishes an appropriate workflow for management of Application for access to the JRC documents involving JRC corporate services, scientific units within the JRC Institutes as well as other Commission services possibly involved.

1.2 Scope and the field of application

- The procedure is applicable to all Applications for access to documents received directly by JRC services *or* submitted to the Commission's Secretariat General and subsequently attributed to the JRC.
- The procedure also applies in case of receiving a confirmatory application following a negative reply (i.e. refusing the access or granting only partial access to the document) to an initial Application for access.
- The procedure is not applicable:
 - in case of applications for documents in the Historical Archives (i.e. the documents after the 30-year period). In this case, the responsible DG, if contacted directly and not via the functional mailbox of the Secretariat General, should address the applicant to the Historical Archives department ([link](#)).
 - in case of procurement procedures: applications for access to information according to in Article 100(2) of the Financial Regulation submitted by the tenderers (i.e. parties to a procurement procedure) before the signature of the contract with the successful tenderer (i.e. within the "Alcatel period"). Such applications will be dealt with in accordance with the dedicated guidelines ([link](#)) and procedure.
 - The requests for access to documents/materials already available to the public, e.g. through the JRC internet websites. Such requests are to be handled in line with the provisions of the Code of Good Administrative behaviour.

1.3 Statutory, legal and other relevant requirements

- Article 15 (3) of the Treaty on the Functioning of the European Union provides the legal basis for the European Institutions' obligation to grant access to the documents in their possession to the public. It follows from this Article that: *"Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium (...)"*.
- With regard to documents of the European Parliament, Council and the Commission, the above mentioned right is further implemented in Regulation (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents ([link](#)). This Regulation lays down the principles according to which the right to access

to documents is exercised and how the three above mentioned Institutions shall treat such applications. .

- Commission Decision 2001/937/EC of 5 December 2001 amending Commission's rules of procedure ([link](#))
- The European Code of the good administrative behaviour ([link](#))
- Regulation (EC) 45/2001 on the protection of personal data ([link](#))
- Council Regulation No. 354/1983 concerning the opening to the public of the historical archives ([link](#))
- Secretariat General guidelines to public access to documents ([link](#)) ([link](#))
- Note Ares(2011)69210 of the Secretary General to the Directors General and Heads of Services concerning Handling of applications for public access to documents.(add file)

1.4 Definitions

Actors – Applicant, JRC access to documents coordinator, competent unit within the JRC holding the document(s) for which the application for access has been submitted, Science Advice to Policy unit (A.1), Inter-institutional and Stakeholder Relations (A.5), External Communication unit (A.6), Legal Advice Unit (B.6), Director of Resource Directorate (Directorate B), DG's Office;

(Initial) Application for access – written request for access to document(s) which is(are) not available in the public domain, e.g. through the JRC internet websites;

Confirmatory application – application submitted to the Commission's Secretary General following a JRC negative reply (i.e.: refusal of granting full or partial access to the requested documents) to an initial application for access;

Deadline – 15 working days time limit starts from the moment when the application is registered in the Gestdem database and the acknowledgement of receipt is sent out to the Applicant;

Document - 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;

JRC Functional Mailbox – The mailbox used for all communication regarding access to documents both internally and externally ([JRC ACCESS DOCUMENTS](#)). The mailbox is managed by the Unit B.6.

Gestdem database – IT application used by the Commission departments under the supervision of the Commission's Secretariat General to manage the applications for access to document(s). It is used for registration and follow-up of applications and replies.

JRC access to documents coordinator/ the "Coordinator" – person responsible for coordination of the applications for access to document(s). The function of the coordination lies with B.6.

Reply – the answer to the application for access to documents. The reply can be positive (i.e. the access to document is granted), negative (i.e. access to the entirety of the document is refused) or partially negative (i.e. when only partial access to the document is granted).

Applicant – Natural or legal person submitting an application for access to document(s);

2. Execution of procedure

2.1 Description

2.1.1 Treatment of initial applications

Step I: Receiving the application, registration and initial verification.

Two situations (A and B) can be foreseen:

A. The Application for access to documents arrives directly to a JRC staff member's professional e-mail address:

- The request is forwarded to the JRC Functional Mailbox without delay;
- The Coordinator registers the application in Gestdem and sends out the acknowledgement of the receipt to the Applicant;
- The Coordinator examines whether the application contains minimum information allowing for identification of the requested document;
- Where the application describes the requested document too vaguely, the Coordinator requests the Applicant for additional information regarding the requested document(s); The request for clarification is registered in Gestdem by the Coordinator;
- Once the requested document is identified, the Coordinator verifies whether the Application was correctly addressed to the JRC, i.e.: whether the document relates to JRC sphere of activity and thus whether the JRC is competent to handle the Application;
- If the request was wrongly addressed, the Coordinator requests the Secretariat General to re-attribue the request to the appropriate Directorate General. In such case, the procedure ends.

B. The application for access to documents attributed to the JRC by the Commission's Secretariat General arrives to the JRC functional mailbox¹:

- The Coordinator examines whether the application contains minimum information allowing for identification of the requested document;

¹ In such case the registration in Gestdem and sending out the acknowledgements of receipt are done by the Secretariat General.

- Where the application describes the requested document too vaguely, the Coordinator requests the Applicant for additional information regarding the requested document(s); The request for clarification is registered in Gestdem by the Coordinator;
- Once the requested document is identified, the Coordinator verifies whether the Application was correctly addressed to the JRC, i.e.: whether the document relates to JRC sphere of activity and thus whether the JRC is competent to handle the Application;
- If the request was wrongly addressed, the Coordinator requests the Secretariat General to re-attribute the request to the appropriate Directorate General. In such case, the procedure ends.

Step II: Internal attribution and assessment of the application.

Situations A and B:

- The Coordinator forwards the Application to the competent unit head together with a request for information concerning the status² of the requested document. In case where the competent unit head cannot be easily identified, the Coordinator forwards the Application to the head of local Resource Management unit or to the Assistant to the Directors of the Institutes in the Ispra Site.
- B.6 unit head, where necessary and relevant, informs the DG's office about the Application.
- The competent unit verifies whether the requested document is indeed in the unit's possession, retrieves it. At the same time, the competent unit provides the information relating to document's status and the contribution on its potential availability to disclosure.
- The document is assessed by the Coordinator together with the staff of the competent unit and, where necessary and relevant, with the legal staff of the unit B.6 in particular, as regards the exceptions provided for in Article 4 of the Regulation 1049/2001.
- In case of the documents resulting from the JRC competitive activities or institutional works carried out for other Directorates General, the Science Advice to Policy unit head (A.1) as well as the Inter-institutional and Stakeholder Relations (A.5) and External Communication (A.6) unit heads are informed about the Application and may provide the additional contribution to the assessment provided by the competent unit as regards the potential policy or stakeholders relations implications if the document is released.
- On the basis of the abovementioned assessment, the line of action is decided:
 - release of the document,
 - refusal of access,
 - granting the partial access to the document,
 - in case of documents mentioned in the previous bullet point, the line of action may also include the re-attribution of the request to the customer Directorate General. In such case the B.6 unit head informs the DG's office and the

² Is the document policy related, has the document been commissioned by other DG, is the document still in the draft form.

Coordinator contacts the Secretariat General, asks for the re-attribution and the procedure ends.

Step III: Preparation of the reply and its transmission

Situations A and B:

- The positive replies are prepared, signed, registered and transmitted to the applicant by electronic means by the head of the competent unit within the JRC. Where the Application relates to sensitive documents or where the release of the document may involve implications of political character, DG's office is informed and consulted. To that end, the draft reply accompanied with the briefing summarizing the assessment of the case is submitted to the DG's office via the Director of Resources before the document is released.
- The functional mailbox JRC ACCESS DOCUMENTS should always be put in copy when the reply is sent out.
- The negative replies (both totally refusing the access and granting the partial access) are prepared by the Coordinator together with the competent unit and legal staff from the Legal Advice Unit (B.6). If necessary and relevant the heads of units A.1 and A.6 are consulted too. The draft of the negative reply together with the briefing describing the reasons of refusal are submitted via the Director of Resources directorate to the DG's office for final approval and signature.
- The signed negative reply is registered and the hard copy is sent out by the regular mail with the acknowledgement of receipt by the secretariat of the Resources Director. Simultaneously, the electronic version of the negative reply is sent out to the Applicant by the Coordinator from the functional mailbox JRC ACCESS DOCUMENTS;
- All the replies are registers in Gestdem by the Coordinator.

2.1.1 Treatment of confirmatory applications

Step I: Receiving the application, registration and initial verification.

Information about submission of a confirmatory application by the Applicant is forwarded by the Commission's Secretariat General to the JRC functional mailbox:

- The Coordinator informs without delay the head of B.6 unit about the confirmatory application;
- The head of B.6 unit informs the Director of Resources and the DG's office. If necessary or appropriate, the information may be accompanied with a short briefing outlining the applicant's argumentation prepared by the Coordinator.

Step II: Internal attribution and assessment of the application.

- The Coordinator inform the competent unit head about the confirmatory application and requests him/her to provide all the necessary documents/information required by the Commission Secretariat General. That includes, in particular, the document being the subject of the confirmatory application, the negative reply and details of contact persons. The information/documents are transmitted to the Secretariat General.

- Where the Secretariat General requires additional information or additional analysis of facts and arguments that were used as justification of the initial refusal, such analysis is prepared by the Coordinator together with the legal staff of the unit B.6, as well as the staff within the competent unit within the JRC Institute and, where necessary or relevant, unit A.1, A.5 and A.6.
- The analysis is submitted to the DG's office for approval.

Step III: Preparation of the reply and its transmission

- The approved analysis is transmitted to the Secretary General by the Coordinator.

2.2 Other related documentation

Standard templates to be used (acknowledgement of receipt, holding reply, request for further information, dispatch form with application for access to the responsible Institute) are available on the following [link](#).

Regulation 1049/2001 Quality Chart – Initial Replies to Access to Documents (Checklist for negative replies – annexed to the Note Ares(2011)69210) (Add file).

2.3 Control of records

Record	Registration	Filing	Retention time	Post-retention treatment
Application for access to document(s)	Yes/Gestdem	Yes, in Gestdem	CRL	CRL
Reply to the applicant	Yes/Gestdem	Yes, in Gestdem	CRL	CRL
Periodic report to the Director General and to the Commissioner (includes an update regarding applications for access to documents)	Yes*	Yes*	*	*

*Registration and filing is carried out by the unit B.1 (Organisational Development and Internal communication) according to the relevant procedure.

3. Review and improvement of procedure

The procedure and its application is monitored by the Coordinator. It will be updated whenever the changes/amendments of the background documents (e.g. amendment of the Regulation 1049/2001, etc.) are introduced.

4. Procedure documentation control

Preparation and updating of the procedure documentation is a responsibility of the procedure owner (unit B.6). The description is reviewed for contents by the main actors of the procedure and for the form by the JRC Quality Manager. The procedure description is approved by the JRC Director General.