



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

The Director-General

B1 [REDACTED]

NOTE FOR THE ATTENTION OF DG R&I DIRECTORS

Subject: Handling requests for public access to documents under Regulation (EC) No 1049/2001

In view of ensuring compliance with the rules of Regulation (EC) No 1049/2001 regarding public access to documents, it is my intention to improve the way access to documents requests are handled by our Directorate-General. This concerns notably:

- (1) compliance with legal deadlines;
- (2) efficient cooperation between the responsible unit(s) and the coordinating Access to documents legal team (unit B.1);
- (3) the quality of the reasoning for denying access to (parts of) documents.

These improvements aim at minimising the risk of complaints to the Ombudsman and to the General Court. Therefore, I would like to remind you of our obligations in the treatment of requests for public access to documents and to bring to your attention the updated procedure to follow. It is indeed very important to avoid the risk of reputational damage in case of late or unsubstantiated replies, while at the same time to adequately protect the legitimate interests of the Commission and of third parties concerned by any potential disclosure of documents.

Within our DG all requests for access to documents are handled centrally by the Access to documents legal team in the Common Legal Support Service B.1 (FMB: RTD-ACCESS-DOCUMENTS@ec.europa.eu). If a request for access to documents is addressed directly to an operational unit, the latter should transfer it to the Access to documents legal team as soon as possible¹. This centralised team replies to applicants based on the contribution

¹ Requests out of the scope of Regulation 1049/2001, such as requests for information, continue to be handled by the operational units, while the Access to documents team is available for advice and support.

received by the responsible operational services and provides guidance to the responsible unit during the whole procedure².

In practice, this includes the following main steps:

- The Access to documents legal team (CLSS-B1) receives and registers the requests and identifies the responsible unit(s)/directorate with regard to documents falling within their remit, i.e. being in their possession, having their origin in the unit or falling otherwise under its responsibility.
- Within max. 2 working days from the allocation of the request the responsible operational unit should designate a case handler/contact point familiar with the subject of the request or should inform the Access to documents legal team in case it considers it is not the responsible unit for the requested documents.
- Within max. 5 working days from the allocation of the request the responsible operational unit should provide its contribution using the template note (see Annex 1), which includes:
 - a) Establishing a list of the relevant existing documents
 - b) Providing the original identified documents to the Access to documents legal team
 - c) Providing the Access to documents legal team with an opinion of the documents (or parts) that should be released. In case it is requested that (parts of) documents should not be released, the units need to provide tangible arguments to support their arguments.
- Following the reception of the documents from the operational unit(s) and its opinion on their (non-) disclosure, the Access to documents team in B1 performs the legal assessment and prepares the reply to the applicant (this includes any potential redaction within the document(s) concerned in case of partial disclosure). The team also handles the intermediary correspondence with all relevant stakeholders including third party consultations, holding replies with extension of deadlines, requests for clarifications or narrowing wide scope requests, negotiation of fair solutions, etc.
- The Access to documents team in B1 replies to the applicant within 15 working days from the registration of the application. In exceptional cases (e.g. if the application concerns a very long document or a very large number of documents), this time limit may be extended once for further 15 working days. Therefore, it is crucial that the deadlines to send the contributions are respected by the responsible unit/directorate. If the operational unit cannot meet the 5 days deadline, it should inform immediately of the reasons for the delay (such as very long document, large number of documents, need to consult other services, etc.)
- In case of a confirmatory application³ before the Secretary General, B1 will defend the position of our DG's reply with input from the responsible unit(s).

² Detailed information on access to documents can be found on the intranet page of Access to Documents - <https://myintracomm.ec.europa.eu/dg/RTD/how-we-work/procedures-and-guidelines/Pages/Public-Access-to-Documents.aspx>

³ In case of partial disclosure, no disclosure or 'devoid of purpose' (no documents held), the applicant is entitled to submit a confirmatory request (an appeal) to the Secretary General.

Please circulate this note and procedure within your directorates to make sure that it is applied with priority.

I expect that by following this procedure strictly we will improve the performance of our Directorate-General on this matter.

Jean-Eric Paquet

Enclosure: Annex 1 – Template for contribution to request for public access to documents