



**European Committee
of the Regions**

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GUIDELINES FOR HANDLING REQUESTS FOR INFORMATION AND REQUESTS TO ACCESS DOCUMENTS

1. Introduction

These guidelines are intended to help you, as a staff member of the CoR Secretariat-General, if you receive requests for information or requests for access to documents from citizens, (sub)national authorities or colleagues in the CoR and other institutions. It is implied in this guide that the request is being made in writing (as no oral requests should be accepted).

2. Request for information or request for access to documents?

There are cases in which a request clearly refers to a document (such as a CoR opinion on a proposal for a directive). However, the distinction between a request for information and a request for access to documents might not always be self-evident, in particular when a specific document is not mentioned in the request. In essence, a request for information concerns (i) information that is not contained in any existing document in the possession of the institutions or (ii) information that is contained in existing documents but where replying to the request would involve creating a new document.

The two above-mentioned criteria are relatively easy to apply to documents of a static nature, in particular those in paper form or in the form of a straightforward file. In the case of electronic databases, due to their dynamic nature, the analysis is more complex¹. If the information can be extracted from a database by using existing pre-programmed search tools, that information is regarded as an existing document and the request should therefore be treated as a request for access to documents. If, however, the information cannot be extracted from a database without a substantial investment, the information is regarded as a new document and the request should be treated as a request for information².

¹ Judgment of the General Court of 2 July 2015 in case T-214/13, *Typke v Commission*, paragraphs 52-59, upheld by the Court of Justice in its judgment of 11 January 2017 in case C-491/15 P, *Typke v Commission*, paragraphs 31-41.

² For instance, a citizen could ask how many plenary sessions a specific member has attended during the previous five years. If such information already exists in paper form or in the form of a straightforward file or can be extracted from a database by using existing pre-programmed search tools, the citizen's request should be treated as a request for access to documents. However, if such information does not exist in paper form or in the form of a straightforward file and extracting it from a database would require a substantial investment, the citizen's request should be treated as a request for information.

3. Requests for information

If, in the light of the guidelines provided in section 2, you determine that you are receiving a request for information and the requested information is already lawfully in the public domain or accessible to the public, you may reproduce it³. You may also disclose information devoid of substantial content (for instance, the scheduled date of a forthcoming commission meeting or other event) and reply to requests for clarifications about the work procedures in the CoR.

If, however, the requested information is not publicly available or accessible to the public (or it was leaked), you must not disclose it (or confirm its veracity) unless you have authorisation from your hierarchical superiors to do so⁴. The decision to authorise or not to authorise the disclosure (or confirmation) will be taken considering in particular its possible consequences for the interest of the institutions and the Member States, for your own independence and for the respect of third-party personal data⁵. Two situations may arise:

- If a decision to authorise the disclosure is taken very quickly, you can reply directly to the applicant.
- In any other case, you should forward the request without delay to the Transparency Service (transparence@cor.europa.eu), which will register it and will take the necessary action⁶.

4. Requests for access to documents

The legal basis for granting or refusing access to requested documents will depend on the identity of the applicant and, in the case of staff, the purpose of the request⁷.

4.1 Requests for access to publicly available documents

If you receive a request for access to a document that is publicly available, you may in principle reply directly to the applicant, without registering the request. In most cases this will simply entail sending to

³ Article 17 of the Staff Regulations.

⁴ Article 17 of the Staff Regulations.

⁵ Article 6 of CoR Decision 419/2005 on deontology and integrity.

⁶ There does not seem to be a citizen's legal right to request information from the EU institutions (see in particular the above-mentioned case T-214/13, *Typke v Commission*, paragraph 54). Therefore, if a request was considered a request for information (instead of a request for access to documents) the CoR could always refuse access. However, the CoR would still have to register the request and provide a reasoned reply to the applicant in order to allow the latter to challenge the CoR decision (judgment of the Court of Justice of 2 October 2014 in case C-127/13 P, *Strack v Commission*, paragraphs 38-42).

⁷ The legal basis would be as follows:

- private citizens (and colleagues in the CoR and other institutions acting in their private capacity): Article 15(3) TFEU, Regulation 1049/2001/EC regarding public access to Parliament, Council and Commission documents and CoR Decision 18/2020 on public access to CoR documents (it should also be noted that the fact that a document is publicly available does not necessarily mean that a citizen has the skills to find it, so as a matter of good administrative behaviour the applicant is entitled to receive the document);
- colleagues in other institutions (requesting documents for work purposes): the principle of (inter-institutional) sincere cooperation under Article 13(2) TEU;
- national and subnational authorities: the principle of sincere cooperation under Article 4(3) TEU;
- colleagues in the CoR requesting documents linked to their personal/medical files: Articles 26 and 26a of the Staff Regulations (see for instance the judgment of the General Court of 13 December 2012 in cases T-197/11 P and T-198/11 P, *Commission and Strack v Strack and Commission*, paragraph 58).

the applicant an internet link to the document. The identity of the applicant (private citizen, colleague or (sub)national authority) is irrelevant in this respect. However, if the request comes from a senior source (e.g. a Commissioner's private office, the office of a regional president, etc.) you should consult your hierarchical superiors, who may decide to reply at the appropriate level. The reply (from you or your hierarchical superiors) should be sent within fifteen working days of receiving the request⁸.

If you think that the document in question is publicly available but you cannot find it, or in case of doubt, you should forward the request without delay to the Transparency Service (transparence@cor.europa.eu), which will register it and will take the necessary action.

4.2 Requests for access to documents that are not publicly available

If you receive a request for access to a document that is not publicly available, your response should depend on the identity of the applicant, and, in the case of colleagues, the purpose of their request.

4.2.1 Private citizens and (sub)national authorities

If the applicant is a private citizen or a national or subnational authority (for instance, a regional government), you should forward the request immediately to the Transparency Service (transparence@cor.europa.eu), which will register it and will take the necessary action.

4.2.2 Colleagues

- If the applicant is a colleague in the CoR and the request is work-related, you may in principle share the requested document, unless it is of a confidential nature or contains personal data (other than names and professional contact details) that is not work-related. In case of doubt, consult your hierarchical superiors.
- If the applicant is a colleague in another institution and the request is work-related, you may send directly to the applicant any document that is already available on the CoR intranet. In any other case, consult your hierarchical superiors.
- If the applicant is a colleague in the CoR or another institution (using the institution's email address) and the request seems *not* to be work-related, ask the colleague to clarify whether it is work-related or for personal purposes. If the colleague confirms that the request is made for personal purposes (or this was already clear from his/her initial message), ask the colleague to make a request as a private citizen⁹.
- If the applicant is a colleague in the CoR and the request concerns his/her personal or medical file, you should ask the colleague to send the request to dossierindividuelCdR@cor.europa.eu or servicemedicalcdr@cor.europa.eu respectively.

⁸ Article 7 of Regulation 1049/2001/EC and Article 6(c) of CoR Decision 18/2020 set the beginning of the time limit of fifteen working days as the date of *registration* of the request (which is not necessarily the same date as that when the request is received). However, for the sake of simplicity and administrative efficiency, there is no need to register a request that will be answered in virtually all cases by simply redirecting the applicant to the Europa website.

⁹ The request should be made from the applicant's private (email or postal) address and sent to transparence@cor.europa.eu or European Committee of the Regions, Documentation Centre, SG.A.1.03, Rue Belliard/Belliardstraat 99, 1040 Bruxelles/Brussel.