

### 5. ASK FOR CLARIFICATION IF NEEDED

If you are unable to identify the document(s) asked for, you should ask the applicant to provide you with additional information which will enable you to identify the document or to narrow down the request. In that case, the 15-working days deadline for reply will apply only from the date by which you receive this information.

### 6. SEARCH FOR A FAIR SOLUTION IF NEEDED

If you think the request is too voluminous, inform the applicant in writing, referring to Article 6(3) of Regulation and confer with a view to finding a fair solution.

In this case, the statutory deadline of 15 working days may be replaced by a timetable agreed with the applicant under Article 6(3) of Regulation.

### 7. IF YOU ARE UNABLE TO REPLY WITHIN THE DEADLINE

Send the applicant a registered letter, before the expiry of the 15-day deadline, notifying him or her of the extension of the deadline and giving reasons for the new deadline.

Failure to reply within the prescribed time limit constitutes a tacit refusal and entitles the applicant to make a confirmatory application.

### 8. IF YOU HAVE TO REFUSE THE REQUEST

The reply must:

- clearly indicate the grounds for the refusal based on one or several of the exceptions listed in Article 4 of the Regulation and set out specific and detailed arguments justifying the refusal;
- inform the applicant of his or her right to appeal to the Secretary General in relation to the application;
- be signed by the Director General and sent by registered letter with acknowledgment of receipt.

## ACCESS TO DOCUMENTS

Regulation 1049/2001 lays down the basic principles regarding the right of the public to access any document held by the Commission.

The Commission applies a maximum level of transparency and can only refuse access in specific cases provided in Article 4 of the Regulation.

If the applicant requests for access to documents already published in whatever form, a simple reply with the document or its Internet URL is sufficient.

If the document requested has never been published, this is an access to documents case in the sense of the Regulation.

It has to be registered as such by the Cellule Administration des Documents - Document Management Team (CAD) and the specific procedure has to be followed.

## 1. CHECK IF YOU ARE REALLY FACED WITH A REQUEST FOR ACCESS TO DOCUMENTS

The Regulation applies only to requests for access to existing documents, *i.e.* "any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility" (Article 3 of the Regulation).

- If the request relates to information which is not contained in documents, and if replying would involve compiling information from a number of different documents, it should be considered as a request for information, to be processed in accordance with the Code of Good Administrative Behaviour for staff of the European Commission in their relations with the public.
- A document that is 30 years old or more can be accessed under the rules on the opening to the public of the historical archives.

## 2. REGISTER THE REQUEST

If the request is received by the Secretary General, it will send a letter of acknowledgement to the applicant, register the application in GESTDEM and allocate it to CNECT CAD.

If the request is received by DG CNECT, CNECT CAD will register the application in GESTDEM, send an acknowledgement receipt to the applicant and allocate it to the competent unit in charge.

## 3. PREPARE THE REPLY

The reply shall be sent in the language requested by the applicant (provided it is an official EU language) within 15 working days as from the registration date and using the templates provided by the Secretary General (adapted meaningfully to the content of the request whenever necessary).

Failure to reply within 15 working days is equivalent to refusing access to the requested document(s) without giving a reason which constitutes grounds for the applicant to send a confirmatory application to the Secretary General and/or to make a complaint to the Ombudsman or the General Court.

## 4. ASSESS THE REQUEST

Draw up a full list of the documents to which the request refers and closely examine the content of each document in order to determine whether disclosure would undermine one or more of the interests protected by the exceptions set out in Article 4 of the Regulation. The list must be attached to your reply, except in cases where the Commission may dispense with an individual examination of each document (check with the legal coordinator in DG CONNECT: Unit R4).

In principle, no document is spared the detailed examination of its content, even if it is 'classified'. If this examination indicates that a classified document must be disclosed, it needs to be declassified before release.

You have three possible replies: **positive reply** (release of the requested document(s)); **negative reply** (duly motivated refusal to release the requested document(s) or devoid of purpose request (no document found)); **partial access reply** (access to part(s) of the requested document(s)).

For negative and partially negative replies you need to ask for DG CONNECT Compliance Unit's (R4) visa through the Ares signatory (exception when only personal data is redacted – this partial negative reply may be signed by the Head of Unit).