

Fiche 1

Access to databases

Main issues:

- Data contained in a database (or parts of a database) which can be extracted by **means of a normal or routine search function** constitutes a document and may be subject to an application for access under Regulation 1049/2001. The possibility of granting access to the respective part of the database has to be considered. In this context, a clear understanding of the functioning and functionalities of the database concerned is fundamental.
- The content of a database should have a certain degree of stability, enabling it to be stored and extracted, otherwise such content cannot be considered a document.
- The fact that certain databases are only managed by the Commission for facilitating exchanges between Member States (such as the CIRCA platform) does not, per se, exclude the application of Regulation 1049/2001. As long as the documents contained in the databases are in the Commission's possession, the Commission should make an assessment under the Regulation. Documents (or their content) communicated to the Commission by a Member State, which are stored without alteration in a Commission database are considered to be documents originating from a Member State. The Commission will therefore have to consult the Member State(s) before deciding on their possible disclosure (see also Fiche on documents from third parties).

Current administrative practice:

The data that can be normally or routinely extracted from a database is assessed like any other document under Regulation 1049/2001. Access is granted, unless a specific exception of Article 4 of Regulation 1049/2001 applies to the document, or parts thereof.

The Commission holds a large number of databases containing environmental information or information on emissions. When the requested access concerns such environmental data, Regulation 1367/2006 (Aarhus Regulation) applies alongside Regulation 1049/2001. An overriding public interest in disclosure is deemed to exist for information on emissions into the environment (Article 6 of Regulation 1367/2006).

Case-law:

- Case T-436/09, *Dufour v ECB*, judgment of 26 October 2011;
- Case T-214/13, *Typke v Commission*, judgement of 2 July 2015 (under appeal by the complainant [C-491/15 P]);
- Case C-60/15P (pending), appeal against the judgment T-476/12, *St. Gobain Glass Deutschland v Commission*.

Reference documents/links:

- Examples of confirmatory decisions and a summary of relevant case-law are available on the Commission's access-to-documents webpages on *My Intracomm*¹;
- The full text of judgments of the EU Courts can be consulted on the website of the ECJ: www.curia.eu.

February 2016

¹ <https://myintracomm.ec.europa.eu/sg/docinter/Pages/tools.aspx>.