

TRANSPARENCY

Access to documents

European Commission– SG B4



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Access to documents held by Delegations : Joint Conclusions of the working-level meeting between Commission services and EEAS

The SG organised an exchange of views with the colleagues of the EEAS and the Commission services dealing with external relations to discuss the approach to be taken on the access-to-documents (ATD) requests received in EU Delegations and, in general, on the treatment of such requests sent to the Commission and/or to the EEAS, including Delegations.

The Commission services agreed that the treatment of requests received in Delegations concerning documents drafted by Commission "held by" the Delegations *and pertaining to the area of competences of the Commission* in Delegations is defined through a working practice, and not through a formalised arrangement or a service-level agreement, hence the need to draft the present conclusions.

The EEAS considers that all requests received by both the Commission headquarters (HQ) and EU Delegations (which are under the administrative responsibility of the EEAS), and relating to documents held by the EEAS, again both in HQ and EU Delegations, are to be treated according to the instructions addressed to the EU Delegations and set out in the EU Delegations' Guide which implements Regulation 1049/2001.

All participants pointed to the need to ensure a consistent working practice with the EEAS as regards the treatment of requests for access to documents in Delegations.

1. The most recurrent scenario clarified with the EEAS was the one where the ATD request is received directly by the Delegation (one single request). For this scenario, two possibilities were discussed:

- a. if the request falls under the Commission competence (EU financial programmes, etc.), the Head of Delegation **explicitly** re-directs the request to the relevant Commission service and informs the applicant accordingly. The acknowledgment of receipt and initial decision should say clearly that it is a Commission decision. Under such a scenario, the initial and confirmatory replies are both dealt with under the direct responsibility of the Commission, unless the applicant disagrees. The Delegation should however duly inform EEAS HQ of all requests being redirected in such a way;
 - b. In all other cases, the EEAS should directly assume the responsibility for registering and dealing with the request both at initial and confirmatory level.
2. In case of a request addressed both to the central services of the EEAS and to the Commission, a close consultation between institutions should be put in place in view to ensure the consistency between replies.

[We cannot however prejudge the outcome of the independent assessment by the two institutions - according to Regulation 1049/2001 as interpreted by the case law, each institution has to take an independent decision.]

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 3. In exceptional cases where a request is received only by the Commission or only by the EEAS HQ, which pertains to the area of competence of the other service, the Commission/EEAS services could, unless the applicant disagrees, re-direct the request to the service that is competent for the subject-matter.

This Joint Note approved by the SG and the EEAS could serve as the basis of such a working arrangement agreement in future.