

## ANNEX 1

### Specific advice for the handling of requests for access to documents

Please find below 12 tips for dealing with requests of access to documents, based on Regulation 1049, SG guidance, SJ indications and recent practice:

1. Where the requested document is considered by the operational unit as accessible, the operational unit will only need to register the document in ARES and assign it for INFO to the FPI ATD Legal Coordinator ( ) and to the FPI ATD Administrative Coordinator ( ).

The FPI ATD Legal Coordinator will then make a last quality and legality control and will send the letter of reply and the requested document/s to the applicant, directly, from the FPI ACCESS TO DOCUMENTS functional mailbox.

2. Where the requested document is considered by the operational unit as partially accessible or fully inaccessible, the operational unit will prepare a draft letter, for the signature of the Director of FPI, stating the reasons of the total or partial refusal and informing the applicant of his or her right to make a confirmatory application before the Secretary-General of the European Commission.

Although the requested document/s can be considered by FPI as partially accessible or fully inaccessible, the document needs in any case to be registered as such in ARES, following the instructions of the SG.

The reason of this operation is that, in case the applicant sends a confirmatory application to the Secretary-General, the SG needs to examine the degree of accessibility of the document in full, from an independent and neutral point of view, directly over the original version of the requested document.

The FPI ATD Legal Coordinator and the Head of Unit of FPI.1 will be assigned the draft letter of reply and the requested document/s for VISA in the e-signatory circuit of ARES. The FPI Administrative Coordinator will also be assigned this e-signatory for INFO.

3. Where the application relates to a very long document or to a very large number of documents, the time-limit of 15 working days may be extended by 15 further working days, provided that the applicant is notified in advance and that detailed reasons are given. Operational units are required to get in touch with the FPI ATD Legal Coordinator as soon as possible whenever they consider that an extension of the deadline would be necessary and always before the closure of the 15-working-day deadline.

4. Where the requested document is a joint document produced by FPI and EEAS, to avoid any risk of inconsistency in terms of level/content of the accessibility, EEAS ACCESS TO DOCUMENTS will need be consulted, all the more if the operational unit is considering total or partial refusal. Practice shows that very often the same citizen sends, simultaneously or successively, one request of ATD to FPI and another one to EEAS.

A non-disclosure by the Commission of a document which has already been disclosed by the EEAS would involve inconsistency between both replies, which should be avoided, both for legal security and reputational damage reasons.

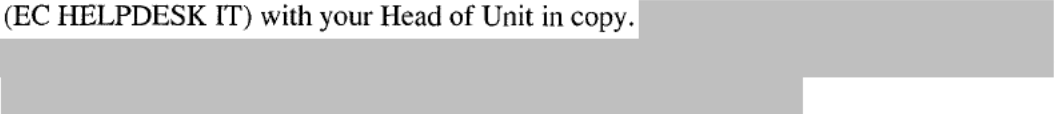
In case of a request addressed at the same time both to the central services of the EEAS and to the Commission, a close consultation between both institutions should be put in place in view to ensure the consistency between replies.

The same is also applicable, *mutatis mutandis*, when the document in question has been produced by FPI (Commission) and the Council.

5. Following the indications of the SG, where there are questions of legal nature over the access to documents' applications sent to FPI, the operational units must inform the FPI ATD Legal Coordinator who himself will send the legal consultation to specific SG ATD LEGAL HELPDESK. In due time, the relevant operational unit of FPI will be informed of the reply to the legal consultation made to SG.
6. Where there are questions concerning general aspects of access to documents' requests, the ATD Legal Coordinator will send the corresponding consultation to the functional mailbox SG CONSULTATIONS B4, in accordance with the internal procedures of collaboration between ATD Correspondents and SG.
7. Where the reference of the document indicated in the notification of the applicant is "/F1", please note that the European Commission's document register VISTA will have registered the document as "final". "F1" and "final", as it has been confirmed by SG, are the same document.
8. No access is in principle granted to names of Commission staff not occupying any senior management position. In accordance with comments received from the LS, "senior management" is henceforth to be understood as "The Secretary-General, Directors-General and Directors".

Based on the guidance, but also based on the particular sensitive features of some of the financial programmes managed by FPI, **where the requests for ATD refer to decisions taken by the Commission in the areas of sanctions/restrictive measures or of the Kimberly Process, when disclosing them either totally or partially, it is required to mask the name and the signature of** [REDACTED].

Adobe Acrobat Professional (see below point 10) allows the manipulation of the corresponding document in order to hide the referred data.

9. Under Regulation 1049, an initial application for access to documents, once replied, might be later on be the subject of a confirmatory application sent by the applicant directly to the Secretary-General of the European Commission. In this case, the FPI ATD Legal Coordinator and the legal contact point of the relevant unit are associated by the SG to the drafting of this reply to the applicant. A confirmatory application needs to be handled promptly – within 15 working days from registration of such an application by SG. SG will process it.
  
10. When granting partial access, operational units need to use “Adobe Acrobat Professional” in order to hide/remove/mask the relevant words/sentences/paragraphs. You can ask for installing it in your computer by sending a message to the IT HelpDesk (EC HELPDESK IT) with your Head of Unit in copy. 
  
11. Access to documents held by Delegations. If the requests for ATD falls under the Commission competence (i.e. EU financial programmes), the Head of the Delegation explicitly re-directs the request to the relevant Commission service and informs the applicant accordingly. 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.
  
12. Member States (MS).

- A. The consultations to the MS –concerning documents elaborated by MS authorities, but being also in possession of FPI– will be redacted in the language of the MS and sent to the contact person in the Permanent Representation, indicated in the list prepared by our colleagues of the Council ([https://myintracomm.ec.europa.eu/sg/docinter/Documents/gi\\_conseil.pdf](https://myintracomm.ec.europa.eu/sg/docinter/Documents/gi_conseil.pdf)).
- B. Following recent clarifications by the Legal Service, requests for ATD coming from the national administrations of the MS shall not be dealt any longer as access-to-documents requests under Regulation 1049/2001.

The application of the MS should be addressed to the relevant unit of FPI which will process it in the framework of the principle of loyal cooperation with the authorities of the MS –laid down in Article 4.3 of the Treaty of the European Union– and send a reply to the MS as soon as possible.

In the reply, the MS could be asked where applicable not to disclose the document/s publicly.