



Q&A on the right of public access to documents

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This guide aims to provide information and guidance on the right of public access to EU documents, and how this is applied across the EU institutions, bodies, offices and agencies. The guide sets out eleven general questions and answers, with a view to assisting those seeking documents or information from the EU administration. Under each question and answer(s), the guide also provides the option to access more detailed information on the applicable rules and how these have been interpreted by the courts and the European Ombudsman.

1. What is the right of public access to EU documents?

The EU Treaties and the Charter of Fundamental Rights of the EU give the public a right to ask for copies of documents possessed by EU institutions, bodies, offices and agencies (EU institutions). EU institutions must grant access to requested documents, except in certain circumstances set out in European law and rules (see question 8).

Further information on the legal basis for the right of public access.

- Does EU law provide for a right of public access to documents?

2. How does the right of public access apply to the EU administration?

The general rules giving effect to this right are set out in Regulation 1049/2001 on public access to EU documents.

Regulation 1049/2001 applies directly to the European Commission, the Council of the EU and the European Parliament, which have adopted rules of procedure setting out how they apply Regulation 1049/2001. The European Council also applies Regulation 1049/2001 and the relevant rules of procedure of the Council of the EU.

The three other EU institutions — the Court of Justice of the EU, the European Court of Auditors and the European Central Bank — apply separate rules that differ to varying degrees from but are generally inspired by Regulation 1049/2001.

More detailed information on the different rules applying to the EU's institutions, bodies, organisations and agencies.

- What are the rules applying to the EU institutions?

- What are the rules applying to EU bodies?

- What are the rules applying to EU agencies?

- The rules applying to EU offices

- Does the right of public access to documents apply to the Eurogroup?

- Are there other rules governing the right of public access to documents?

3. Who can make a request for public access to documents?

Any EU citizen, any person residing in an EU Member State or any 'legal person' registered in an EU Member State (such as a company, organisation or association) has a right to request public access to an EU document.



An institution is entitled to ask for your contact details for the purpose of processing your request for access, including verifying if you are an EU resident or citizen.

More detailed information on who can make a request for public access to documents.

- Who can ask an EU institution, body, office or agency for access to a document?
- Must a person identify who they are when making a request for access to a document?

4. To what can the public request access?

The term 'document' implies any content (words, numbers, symbols, computer code, pictures, sounds) in any format (such as paper or electronic documents, emails, text messages or sound, visual or audio-visual recordings). The right of public access to documents applies to documents relating to the policies, activities and decisions under the institution's sphere of responsibility. According to Regulation 1049/2001, all institutions are required to keep a register of documents they hold.

Individuals can request access to documents that they know to exist but can also request access to any documents held by an institution related to a specific, defined matter, without knowing the exact description of the documents in question. While there is no limit to the amount of documents which can be requested, according to Regulation 1049/2001, EU institutions may refuse to deal with a request for very large documents or a very large number of documents. However, in such cases, they should first try to reach a fair solution with the person requesting access.

More detailed information on what the right of public applies to.

- What is implied by 'document' in the context of the right to public access?
- Does the subject matter of the document matter?
- Does the right of public access apply to documents on the work email account of an EU staff member?
- Does the right of public access apply to text or instant messages sent by mobile phone?
- How to find out if an institution has a document?
- What if an institution insists that a requested document does not exist or is no longer in its possession?
- Is there a limit to the number of documents that can be requested?
- What rules apply to classified documents?
- What is the difference between the right of public access to documents and the right of access to the file?

5. In what languages can a request be made and documents received?

Individuals can make a request for access to documents in any of the 24 official languages of the EU and the institution is obliged to reply in this language. Where an institution grants access to a document, it discloses the document in the language(s) in which it exists but is under no obligation to translate the document.

More detailed information on the language policy applying to access requests.

- If an institution has granted access to a document in one language, does the requester have the right to a translation?
- If a request is made in one official EU language, can the EU institution, body, office or agency respond in another language?

6. What is the procedure and timeline for requesting access to documents?

Individuals must request access to documents in writing. Some institutions have in place



online forms or portals for dealing with requests, which may help to process requests more quickly. In making the request, individuals should provide information about their identity and identify the documents they want.

On receiving a request, institutions should normally acknowledge receipt. Institutions are required to respond within 15 working days of registering a request, unless they need to clarify the request. For complicated or large requests, institutions may extend the deadline by 15 days.

If an institution refuses access to a request, by invoking one of the exceptions under Regulation 1049/2001 (see question 8), the individual may ask the institution to review its decision (by making a 'confirmatory application'). The same timeline applies as to the initial request.

If an institution maintains its decision to refuse access (or does not reply within the applicable timeframe), individuals may turn to the European Ombudsman or the EU Courts (see question 7).

More detailed information on the procedure and timeline for access requests.

- Can a request be made by email?
- How long will it take to obtain a decision?
- What information should a requester provide in a request?

7. Under what circumstances can access be refused by an EU institution, body, office or agency?

Regulation 1049/2001 sets out certain exceptional circumstances under which an EU institution may refuse access to documents (Article 4 of the Regulation). These exceptions include if the institution considers disclosure would undermine the public interest in certain sensitive areas or would undermine the privacy of individuals (consistent with EU data protection law). The exceptions also cover the protection of ongoing decision-making procedures, legal procedures or commercial interests.

In invoking these exceptions to withhold access, the institution must demonstrate that there is no overriding public interest that would justify disclosing the documents.

More detailed information on how and when access can be refused.

- What reasons can be put forward for refusing access?
- How detailed must an institution's arguments be when justifying a refusal to grant access to a document?
- How can people requesting documents verify that the reasons given for refusing access are justified if it is not possible to see the documents?
- What is a 'public interest' in disclosure, when can it be invoked and when can it lead to access being granted?
- Does the passage of time play a role in dealing with requests for access to documents?
- May an EU institution, body, office or agency refuse access to a document containing information that is already in the public domain?
- What is meant by the exception for protecting 'public security' and 'defence and military' matters?
- What does the exception for protecting international relations mean?



- What is meant by the exception for protecting the financial, monetary or economic policy of the EU or a Member State?
- What is meant by the exception for protecting personal data? Can personal data contained in a document be accessed?
- What is meant by the exception for protecting commercial interests?
- What is meant by the exception for protecting legal advice and court proceedings?
- What is meant by the exception for protecting the purpose of audits, inspections and investigations?
- What is meant by the exception for protecting internal decision making? How could this interest be undermined by disclosing documents?
- What are 'legislative documents' and what rules apply to such documents?
- Can a third party that provided a document to the EU institution, body, office or agency veto the disclosure of the documents?
- Can a Member State that provided a document to the EU institution, body, office or agency veto disclosure of the document?

8. What to do when an access request is refused. What is the appeals process for decisions refusing access to documents?

Individuals may submit a complaint to the European Ombudsman if the institution has rejected, in full or in part, their request following a review (a confirmatory decision) or fails to reply within the applicable timeframe. The Ombudsman seeks to deal with such complaints as swiftly as possible and, to this end, has put in place a Fast-Track procedure. The Ombudsman has the power to inspect the documents at issue and may make a recommendation that the documents be disclosed.

Individuals may also take a case to the EU Courts if the institution has rejected, in full or in part, their request following a review.

More detailed information on the appeal process.

- What happens if the EU institution, body, office or agency refuses to grant access?
- What happens if the initial decision is upheld following a request for review ('confirmatory application')?
- What happens if an institution does not respond at all to a request?

9. What rules apply to environmental information?

Access to information and documents, public participation in decision making and access to justice in environmental matters is governed at international level by the so-called Aarhus Convention (1998), which binds the EU institutions and has been incorporated into EU law. There is considered to be a particular public interest in transparency regarding environmental information and decision making, and such information should be easy to access. EU institutions may still invoke the exceptions provided for under Regulation 1049/2001 to refuse access, but these exceptions must be interpreted in a restrictive way, taking into account the public interest served by disclosure.

More detailed information on access to environmental information.

- What are the rules that apply to access to environmental information?

10. Are documents that were disclosed following an access to documents request published?

The fact that an institution must disclose a document to an applicant does not mean that the institution has a duty to publish the document proactively. However, institutions have a duty to make documents available directly to the greatest extent possible, for example by making



them available on their websites and/or through their public registers of documents.

Individuals who are granted access to documents may publish the documents, except where the institution indicates that restrictions are necessary, for example if the document is covered by copyright or other intellectual property rights.

More detailed information on the publication of documents to which public access is granted.

- How do the rules on public access to documents interact with the rules on publishing documents?

- Can a requester that has received a document following a request for access publish that document?

11. What rules apply to 'classified' documents?

Sensitive documents may be designated classified in order to protect the essential interests of the EU, notably in public security, defence and military matters. According to Regulation 1049/2001, individuals may request access to classified documents. Such requests may be processed only by individuals with clearance to consult such documents, and an institution is not required to confirm that a sensitive document even exists.

More detailed information on classified documents.

- What rules apply to classified documents?