



# Decision

## of the European Ombudsman on internal procedures for dealing with applications for public access to documents and requests for information

The procedures set out in this Decision aim to ensure that, in examining applications for public access to documents and requests for information, the Ombudsman applies the highest standards of transparency and efficiency.

Applications for public access to documents held by the European Ombudsman's Office shall be dealt with in accordance with Regulation (EC) No 1049/2001<sup>1</sup>, while respecting the Statute of the European Ombudsman<sup>2</sup>.

This Decision shall apply also to requests for information received by the Ombudsman's Office.

## The Ombudsman has adopted the following internal procedures

### Article 1: Receipt of applications for public access to documents and information

1.1 The lead service for dealing with applications for public access to documents and requests for information shall be the freedom of information (FOI) team, which comprises the Transparency officer(s) and the document management staff.

1.2 Anyone in the Ombudsman's Office who receives an application for public access to documents shall forward it to the FOI team promptly for registration and processing.

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

<sup>2</sup> Decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties adopted by Parliament on 9 March 1994 (OJ L 113, 4.5.1994, p. 15) and amended by its decisions of 14 March 2002 (OJ L 92, 9.4.2002, p. 13) and 18 June 2008 (OJ L 189, 17.7.2008, p. 25).



1.3 Anyone in the Ombudsman's Office who receives a written request for information shall deal with it directly and expeditiously. If this cannot be done, the request for information should be forwarded to the FOI team.

## **Article 2: Applications for public access to documents**

2.1 Applications for public access to documents shall be processed in accordance with the procedural<sup>3</sup> rules set out in Articles 6 - 10 of Regulation (EC) No 1049/2001. These rules include the right of the applicant to make a confirmatory application<sup>4</sup> in the event of a total or partial refusal or failure to reply within the specified time-limit.

2.2 Decisions on initial applications shall be taken by the Transparency officer(s). A decision on an initial application refusing public access to the requested document(s), either in full or in part, shall state reasons and shall inform the applicant of the right to make a confirmatory application.

2.3 Decisions on confirmatory applications shall be taken by the Secretary-General. A decision on a confirmatory application refusing public access to the requested document(s), either in full or in part, shall state reasons and shall inform the applicant of the right to institute proceedings before the Court of Justice of the European Union, under the relevant provisions of the Treaty on the Functioning of the European Union.

2.4 Public access to documents shall be granted unless certain public or private interests need to be protected by way of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001.

2.5 Where an application for public access to documents concerns a document obtained in the course of an inquiry from any natural or legal person, EU institution or Member State on the condition of confidentiality, there is a presumption of non-disclosure of the document in accordance with the Statute of the European Ombudsman<sup>5</sup>.

2.6 In these cases, in the interests of transparency, the Ombudsman may liaise with the person, EU institution or Member State that has provided the document in order to establish whether the confidentiality may be waived and the document disclosed.

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<sup>3</sup> The word "procedural" includes reference to time limits, manner of access and the right of review.

<sup>4</sup> "Confirmatory application" is the term used in Regulation (EC) No 1049/2001 for the right of review.

<sup>5</sup> The Ombudsman considers that the following documents fall within the scope of Article 2.5 of this Decision: 1. Sensitive documents within the meaning of Article 9 of Regulation (EC) 1049/2001 obtained from an EU institution, 2. Documents obtained, including following an inspection, on the condition of confidentiality from an EU institution, 3. Documents classed as secret by law or regulation obtained from a Member State, 4. Evidence obtained in confidence from officials or other servants of the EU through testimony, 5. Documents obtained from a complainant or a third party which, in order to protect the legitimate interests of the complainant or a third party, the Ombudsman classifies as confidential, either upon request from the complainant or the third party concerned or on the Ombudsman's own initiative.



### **Article 3: Personal data**

3.1 Where a document to which public access has been requested contains personal data within the meaning of the Data Protection Regulation<sup>6</sup>, the handling of such personal data shall be in compliance with the provisions of that Regulation.

3.2 In the interests of transparency, the identities of Ombudsman staff members at Head of Unit level or above, where mentioned in the context of their professional duties, will normally be disclosed, unless there is good reason for not doing so.

### **Article 4: Requests for information**

4.1 Requests for information shall be dealt with as speedily as possible but, in any event, within 15 working days.

4.2 Any decision to refuse to provide the information sought shall state reasons<sup>7</sup> and shall inform the requester of the right to request a review of the decision.

4.3 Following a request for a review, the Secretary-General shall review the decision to refuse to provide the information sought. This review shall be conducted as quickly as possible and, in any event, within 15 working days.

### **Article 5: Adoption and entry into force**

This decision shall enter into force on the date of its adoption. The Ombudsman's Decision of 5 September 2019 adopting internal procedures for dealing with applications for public access to documents and requests for information is hereby repealed.

Emily O'Reilly  
European Ombudsman

Strasbourg, 18/03/2020

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<sup>6</sup> Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, OJ L295, 21.11.2018, p. 39-98.

<sup>7</sup> The grounds on which such refusal may be based include confidentiality, professional secrecy or the obligation not to harm a complainant or any other person.