

ACCESS TO EUROPEAN COMMISSION DOCUMENTS - A CITIZEN'S GUIDE

INTRODUCTION

The Amsterdam Treaty introduced a new Article 255 which gives citizens a right of access to European Parliament, Council and Commission documents. Under this article, on 30 May 2001, the Council and the European Parliament adopted a new [Regulation](#) on public access to European Parliament, Council and Commission documents (1).

This new regulation replaces, with effect from 3 December 2001, Decision 94/90 on public access to Commission documents, which therefore ceases to apply. The new regulation is implemented by internal rules drawn up for the purpose by the individual institutions. The texts of the regulation and the internal Commission rules (Decision C (2001) 3714/9) are attached to this guide.

On the whole, the new regulation follows the same lines as the earlier Decision 94/90. The definition of a "document" is a broad one and no category of document is excluded *a priori* from the right of access, including classified documents. Refusal to grant access must be based on one of the exceptions provided for in the regulation and must be justified on the grounds that disclosure of the document would be harmful.

The new regulation introduces a number of innovations designed to increase transparency and improve public access to the institutions' documents:

- access is extended to documents originating with third parties (for example, the Member States, third countries, the other institutions, the public);
- a document protected by an exception (other than the protection of public interest or of privacy) can still be released where serving the public interest is more important than protecting the document;
- time limits for replies are reduced to 15 working days;
- a document register will be made available to the public in the first half of 2002.

The aim of this Guide is to explain as simply as possible, in a question and answer format, how to get access to Commission documents. It is in two parts; the first tells you what to do to get access to information which has already been published and the second how to get access to unpublished documents.

The Commission regards public access to both published and unpublished documents as an important part of its broader information policy, dedicated to giving as full a picture as possible of the Commission's own activities and those of the European Union as a whole.

¹ Regulation (EC) 1049/2001 of 30 May 2001, OJ L 145 of 31/05/2001 p.43.

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I. ACCESS TO INFORMATION PUBLISHED BY THE COMMISSION

1. What kind of documents are published by the Commission?

The Commission publishes a large number of documents relating to its decision-making process. These are primarily:

COM documents (sometimes **SEC** documents), which contain the Commission's legislative proposals and other communications of general interest that are due to be transmitted to the other institutions. The final versions of COM documents are published in all of the 11 European Union languages. SEC documents, on the other hand, are not systematically published. COM documents also contain proposals for directives, regulations or decisions of the Council and/or European Parliament, Green Papers, White Papers, political communications, reports and working documents of the Commission;

C documents, which relate to official instruments for which the Commission has sole responsibility.

The Commission or its departments also produce information material, such as reports, studies and general information documents on Community objectives and policies.

2. What are the main sources of publications in paper form?

The main source of publications in paper form is the **Official Journal of the European Communities (OJ)**. The OJ consists of two related series and a supplement:

- **The L series (legislation)** contains all the legislative acts whose publication is obligatory under the EC Treaties, as well as other acts.
- **The C series (information and notices)** covers the complete range of information other than legislation.
- **The S series (supplement)** contains invitations to tender for public works and supply contracts.

The L and C series are published daily and the supplement every day from Tuesday to Saturday.

The Official Journal of the European Communities is available in the eleven official languages of the European Union (Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish).

3. How can I obtain Commission publications?

Priced publications, such as the OJ, reports and studies can be obtained from the sales offices of the Office for official publications of the European Communities (OOPEC) (see address list at the end of this Guide).

If the document you want has not yet been put on sale, you can ask the Commission for it directly (see address list at the end of this Guide).

For free publications (leaflets or brochures, for example) you can apply to the Commission Representations in the Member States, Commission Delegations in non-member countries or information relays and networks such as the Euro Info-Points, the Rural Information Carrefours and the Local Urban Initiative Centres (see address list at the end of this Guide). Some free publications can also be obtained from a service or from a Directorate-General (DG). In this case, requests should be addressed to the service or DG whose name appears in the title of the publication.

4. What are the main sources of publications in electronic form?

The Commission has its **EUROPA server** on the Internet (<http://europa.eu.int>); this contains general information on the principal policies and activities of the European Union and the Commission.

It also gives immediate access to official documents such as legislative proposals, Green Papers, White Papers, political communications, annual reports and work programmes.

To make access to official documents easier, the EUROPA server now offers a portal (<http://europa.eu.int/eur-lex>) from which the following sites can be reached:

- **Eur-Lex** (single point of access to all the European Union's legislative instruments)
- **CELEX** (a complete database of community legislation, which offers complex search options)
- **Pre-Lex** (Commission database containing the interinstitutional procedures and enabling you to follow the major stages of the decision-making process between the Commission and the other institutions)
- **TED** (Internet version of the Supplement to the OJ which supplies information for public tenders)
- **OJ** (L,C, CA and CE series)

These search tools enable you to find document references from a key word.

The EUROPA server also provides direct access to other sites, such as the OOPEC site, and to the sites of the other Community institutions.

5. Are there any other documents which are automatically available to the public?

Yes, of course some documents are automatically accessible to the public, on condition that they are drawn up or received by the Commission after 3 December 2001. In this way, the agendas for Commission meetings are made directly accessible on the EUROPA server (<http://europa.eu.int>).

Moreover, the following documents are automatically given out on request.

- ordinary minutes of Commission meetings, once they have been approved;
- documents adopted by the Commission for publication in the OJ;
- documents originating from third parties which have already been disclosed by their author or with their assent;
- documents already disclosed following a previous application (*Art 9 of the internal regulation*)

6. Who can I contact with a request for general information?

The **Europe Direct** unit has been set up to answer questions of a general nature from the public. Europe Direct can help you find your way around the mass of information available by directing you either to the department responsible or to the right page of the EUROPA server.

You can contact Europe Direct by phone or by e-mail. For more information, consult Europe Direct website at the following address:
http://europa.eu.int/europedirect/en/index_en.html.

II. ACCESS TO UNPUBLISHED DOCUMENTS

7. What is an unpublished document?

An unpublished document is any text (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) which is related to the Commission's areas of activity and kept by it, but which has not been made public. This covers both documents produced by the Commission and those reviewed by it (*Articles 2 and 3 of the Regulation*).

8a. Can I request access to any unpublished document?

Yes, because no category of document is excluded *a priori* from the right of access, including classified documents (*Article 2 of the Regulation*). So this means that any **internal** Commission document can be requested. An internal document is a document which has either not been finalised or is not intended for publication.

For example:

- preparatory documents on Commission decisions and policy initiatives such as preliminary drafts, interim reports, draft legislative proposals or decisions;
- explanatory documents or other kinds of information such as statistics, memoranda or studies which form the background to Commission decisions and policy measures;
- correspondence between the Commission and the Member States, the public and companies.

Documents from **third parties**, received and kept by the Commission, are also accessible. "Third party" means any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and third countries (*Articles 2 and 3 of the Regulation*).

8b. How can I access a document over 30 years old, which is kept in the Commission's historical archives?

Very easily. These documents are open to the public according to specific rules (Council Regulation No. 354/83 2.) For more information, you can go directly to the service which manages the historical archives (see the address at the end of this guide) or consult the website at the following address: http://europa.eu.int/historical_archives

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9. Who can ask for a document?

Anyone, regardless of their personal or professional situation, may ask for a document, without having to give a reason (*Articles 2 and 6 of the Regulation; Article 1 of the internal rules*).

10. How should a request for access be presented?

The request must be made in writing. It may be sent by post, fax or e-mail. To guide you in your search, a document register will be made available on the EUROPA server (<http://europa.eu.int>) in the first half of 2002. If you find your document in the register, all you have to do is quote the references provided. If you do not find the document you want in the register (which does not mean that the document can not be made public) make your request as detailed as possible, providing as much information as you can to help us identify the document or documents you want.

To help you, an access request form is available on the EUROPA server and is attached to this guide.

If your request is not sufficiently precise, the Commission will ask you to provide more information. It can help you to do this by, for instance, providing information on the use of the document register.

If the application relates to a very long document or to a very large number of documents, the Commission may approach you informally, with a view to finding a fair solution (*Articles 6 and 11 of the Regulation*).

11. What language should the request be in?

The request can be made in any of the eleven official Community languages - Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish (*Article 6 of the Regulation*).

12. Where should the request be sent?

All requests for access to a document must be sent to the Commission's Secretariat-General or directly to the department responsible if you know which it is (see address list at the end of this Guide) (*Article 2 of the internal rules*).

If the document you want is available from the national authorities of your country of residence, you can also apply to them.

13. When will I receive an answer?

Applications for access to documents must be processed promptly. Receipt of your application will be acknowledged. Within 15 working days from registration of your application, the Commission will either send you the document you asked for or will reply stating the reasons for its total or partial refusal. In this case, you will be informed of your right to ask for your original application to be reconsidered.

If your application creates particular problems (because of the volume of documents asked for, for example), the time limit could be extended by another fifteen working days. In this case, you will be notified in advance and the reasons for the extension of the time limit will be explained (*Article 7 of the Regulation; Article 2 of the internal rules*).

14. In what form will I receive the document?

You will receive the document :

- either as a paper copy
- or in electronic form.

Documents are supplied in an existing version and format, according to your preference. Some older documents are not available in electronic form.

Unpublished documents are not always available in all the official Community languages (*Article 10 of the Regulation*).

15. How much does it cost to obtain a document?

If the document is no longer than 20 pages (A4 sheets), it will be provided free of charge. There is also no charge for consulting documents on the spot and in the case of direct access in electronic form.

You may be charged for voluminous documents, but you will never have to pay more than the real cost of producing and sending the copies (*Article 10 of the Regulation, Article 7 of the internal rules*).

16. Can I make copies of Commission documents?

Yes, you can make copies of documents you have obtained from the Commission, but not for commercial purposes unless you consult the Commission first (*Article 16 of the Regulation*).

17. Can I be refused access to a document and, if so, on what grounds?

In theory, all Commission documents should be publicly accessible. However, there are inevitably some which have to be withheld in order to protect public or private interests or to ensure that the Commission's work is not disrupted. Refusal to grant access must be based on one of the exceptions described below and must be justified on the grounds that disclosure of the document would be harmful (*Article 7 of the Regulation*).

18. How are the exceptions defined?

Exceptions to the right of access are clearly set out in the rules :

1) refusal is justified where disclosure could undermine the protection of:

- the public interest (in particular public security, defence and military matters, international relations, or the financial, monetary or economic policy of the Community or a Member State);
- privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data;

2) unless there is an overriding public interest in disclosure, refusal is justified where such disclosure could undermine the protection of:

- the commercial interests of a specific natural or legal person, including intellectual property;
- court proceedings and legal advice;
- the purpose of inspections, investigations and audits;

3) unless there is an overriding public interest in disclosure, refusal is justified where such disclosure could seriously undermine the Commission's decision-making process in respect of any document:

- drawn up by the Commission for internal use or received by it, which relates to a matter where the decision has not yet been taken;
- containing opinions for internal use as part of deliberations and preliminary consultations within the Commission, even after the decision has been taken.

If only parts of the document are covered by any of these exceptions, the remaining parts of the document can be released.

If the document requested originated with a third party, the Commission may consult that person or body before deciding whether to release the document (*Article 4 of the Regulation, Article 5 of the internal rules*).

19. What happens if the document is classified?

A classified document, according to current Commission rules (Decision 2001/844) is one which is marked "restricted", "confidential", "secret" or "top secret". A document is classified when it contains information whose unauthorised disclosure:

- could harm the essential interests of the European Union or one of its Member States ("top secret" – exceptional harm, "secret" – serious harm, "confidential" – average harm) ;
- could be detrimental to the interests of the European Union or one of its Member States ("restricted").

Because of the information they contain, such documents enjoy a special level of protection even inside the institution.

If the document requested is classified, the Commission examines whether its disclosure would be harmful according to the exceptions set out above (see question 18). If disclosure of the document is not going to cause harm it will be declassified and released.

A document that has at least a "confidential" classification and may be relevant to the protection of the public interest as regards:

- public security,
- defence and military matters,
- international relations,
- the financial, monetary or economic policy of the Community or a Member State,

is called a "sensitive document". A "sensitive document" originating with a third party will not be released without the author's consent (*Article 9 of the Regulation, Article 6 of the internal rules*).

20. In practice, what kind of document can the Commission refuse to release?

No exception is applied automatically and each request is examined on a case-by-case basis. However, access might be refused if a document:

- relates to complaints made to the Commission, or contains information whose disclosure would harm the conduct of international relations;
- refers to the personnel records of Commission staff (relating to recruitment, promotion or medical files);
- contains a firm's trading or manufacturing secrets;
- is an audit report on the use of EU funds paid to companies for implementing a project about which litigation is pending, or an internal audit report of the Commission;
- expresses the personal opinions of Commission officials or advice from a Commission department.

21. What can I do if my request for documents is turned down or if the Commission has not replied within the time allowed?

In both cases you can ask the Commission to reconsider its decision, by sending a written request (confirmatory application) to the Secretary-General of the Commission (see the address at the back of this Guide) within 15 working days following receipt of the institution's reply or expiry of the time limit if the Commission fails to reply. The Commission then has 15 working days within which to change or confirm its decision. If the refusal is confirmed you will be given details of how to pursue the appeal further - that is, by submitting a complaint to the European Ombudsman or bringing an appeal before the Court of First Instance (*Articles 7 and 8 of the Regulation; Articles 1 and 4 of the internal rules*).

FURTHER INFORMATION

Further information on how to obtain access to Commission documents can be obtained from:

The Secretariat-General
European Commission
Unit SG/B/2 "Openness, access to documents, relations with civil society"
B-1049 Brussels, Belgium

Website "Access to documents"

http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/en/index.htm

ANNEXES

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

DECISION C (2001) 3714 OF THE EUROPEAN COMMISSION of 5 December 2001 amending its rules of procedure

ADDRESSES

Addresses to which applications for access to Commission documents can be sent:

The Secretariat-General
European Commission
Unit SG/B/2 "Openness, access to documents, relations with civil society"
B-1049 Brussels, Belgium

Fax : 0032 (0)2 296.72.42

E-mail address: sg-acc-doc@cec.eu.int

For all other Directorates-General :

European Commission
B-1049 Brussels, Belgium

Address of the Commission's historical archives

Secretariat-General
European Commission
Unit SG/B/3 "Simplification and modernisation of archiving systems and historical archives"
B-1049 Brussels, Belgium

Address of the Sales, Promotion and Customer Support Service of OOPEC

2, Rue Mercier
L-2985 LUXEMBOURG
Fax (352) 292942763

Sales offices of OOPEC (<http://eur-op.eu.int/general/en/s-ad.htm>)

Other addresses where free publications can be obtained

Commission representation offices in the Member States
(http://europa.eu.int/comm/represent_en.htm)

Commission delegations in third countries
(http://europa.eu.int/comm/external_relations/repdel)

List of Euro Info-Points, the Rural Information Carrefours, Local Urban Initiative Centres and information relays and networks within the European Union – to obtain these addresses please contact:

The Directorate-General for Press
European Commission
Unit Press /A/2
B-1049 Brussels, Belgium

Europe Direct Call Centres

Telephone numbers: http://europa.eu.int/europedirect/phones_en.html

E-mail address: mail@europe-direct.cec.eu.int

APPLICATION FORM FOR ACCESS TO A DOCUMENT HELD BY THE COMMISSION

Please supply all compulsory information, marked with an asterisk *.

(When you have finished filling in the form, click on "Send" at the bottom of the screen. If you have not filled in a section correctly, a message will tell you what changes are required.)

1. Originator of the request

First name *

Surname *

Acting on behalf of

Address (number, street, post code, town, country) (1)

Fax (1)

E-mail address(1)

2. Document requested(2)

Number of the document with reference number

Date of the document

Title of the document

Word in the title or subject

Language requested

Language (EN FR) if the language requested is not available

Directorate-General (DG) responsible

3. Preferred means of access

Please send me a copy of the document (3)

- by post
- by fax
- by e-mail

I would like to consult the document on the spot

SEND

CANCEL

1 One of these three elements must be filled in to enable the document requested to be sent.

2 Please complete as many as you can of the fields in this section to enable the Commission's departments to identify the document you need.

3 If the volume of the documents requested exceeds twenty pages, the applicant may be charged a fee of €10 per page plus carriage costs.

