



EULEX Kosovo

Standard Operating Procedure (SOP) on Public Access to Documents

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1. Purpose

- 1.1. CSDP Missions must guarantee the right of public access to documents¹ as one of the fundamental rights and freedoms enshrined in Article 42 of the Charter of Fundamental Rights of the European Union (hereinafter referred to as the Charter).²
- 1.2. *Provisions on public access to documents applicable to CSDP missions should reflect, by analogy, the principles which stem from the legal framework on public access to documents applicable to the European Union institutions, namely Regulation (EC) No 1049/2001³ of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter, Regulation 1049/2001)⁴ and the Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 19 July 2011 on the rules regarding access to documents (2011/C 243/08)⁵.*
- 1.3. The purpose of this SOP is to define the principles, conditions and limits for the public access to documents in the European Rule of Law Mission in Kosovo – EULEX Kosovo (hereinafter ‘the Mission’).

2. Scope

- 2.1. Any citizen of the Union, or any natural or legal person residing or having its registered office in a Member State, has a right of access to the Mission's documents, consistent with the principles, conditions and limits laid down in Regulation 1049/2001 and, in accordance with the specific provisions laid down in this policy. This right of access concerns documents held by the Mission, namely, documents drawn up or received by it and in its possession.
- 2.2. In order to ensure a right of access commensurate to that under the *Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 19 July 2011 on the rules regarding access to documents (2011/C 243/08)*, any natural or legal person not residing, or not having their registered office, in one of the Member States enjoys the right of access to the Mission documents, referred to in paragraph 2.1, in accordance with the same principles, conditions and limits.

3. Application, acknowledgment and response

- 3.1. An initial or confirmatory application for access to a Mission document must be sent by post or by e-mail to the Mission as follow:

Postal address: **EULEX Kosovo Headquarters,
Lidhja e Pejës 177
P.O. Box: 268,
10000 Pristina, Kosovo**

E-mail: info@eulex-kosovo.eu

¹ Document covers any content (words, numbers, symbols, computer code, pictures and sounds) in any format (paper or electronic documents or sound, visual or audio-visual recordings). It also refers to text or instant messages concerning professional activities (e-mail or phone message). It also covers the content of a database, provided the content can be retrieved from the database using existing software solutions available to those persons using the database (End-User). It also applies to documents relating to the policies, activities and decisions made or taken within the Mission except for documents related to the implementation of the Mission's its mandate.

² https://www.europarl.europa.eu/charter/pdf/text_en.pdf

³ The right of public access to EU documents is qualified by the EU Data Protection Regulation (2018/1725).

⁴ OJ L 145, 31.5.2001, p. 43.

⁵ OJ C 243, 20.8.2011, p. 16.

- 3.2.** In the event of a total or partial refusal of the initial application, applicants may make a confirmatory application asking the Mission to reconsider its position.
- 3.3.** As soon as the application is registered from within the Mission, an acknowledgement of receipt must be sent to the applicant.
- 3.4.** The Mission is entitled to ask the applicant for their contact details for the purpose of processing the request for access.
- 3.5.** Upon registration the application will be processed by the Mission and sent to the Legal Adviser of the Civilian Operations Headquarters (hereinafter, "CivOps HQ") for information.
- 3.6.** If the Mission has a copy of a document in the language requested, it shall provide access to this. However, if the Mission does not have a copy in the language requested, it shall be under no obligation to provide a translation.
- 3.7.** The applicant does not need to provide a reason for the request, with exception overriding public interest or necessity in case of personal data of a third party or legitimate interests.
- 3.8.** In the receipt of acknowledgment for the initial application, the Mission shall refer, that in the event of a total or partial refusal of the initial application, applicants may, within 15 working days of receiving the Missions' reply, make a confirmatory application asking the Mission to reconsider its position.
- 3.9.** In the receipt of acknowledgment of the confirmatory application, the Mission shall refer, in the event of a total or partial refusal of the initial application, applicants may submit a complaint to the European Ombudsman if the Mission has rejected, in full or part the request or fails to reply within the applicable timeframe.
- 3.10.** The reasons for refusing access to documents are set out in Article 4(1) to 4(3) of Regulation 1049/2001 on public access to documents.⁶
- 3.11.** These reasons 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.
- 3.12.** If the answer to an application is even partly negative, it must state the reasons for the refusal based on one of the exceptions set out in Regulation 1049/2001 and inform the applicant of his right to submit a confirmatory application (in the case of an answer to an initial application).
- 3.13.** If a document has been transmitted to a third party and is no longer held, the Mission must inform the applicant of the transmission, thereby allowing the latter to redirect their enquiry.

4. Time limits

- 4.1.** The Mission must answer initial and confirmatory applications within 15 working days of the date of registration of the application.⁷
- 4.2.** If an application is imprecise or unclear, the Mission will invite the applicant to provide additional information to make it possible to identify the documents requested. In this case the deadline for reply

⁶ [EUR-Lex - 32001R1049 - EN - EUR-Lex \(europa.eu\)](#)

⁷ Public holidays are not counted when calculating the deadline expires.

will run only from the time when the Mission has received this additional information. If the applicant is not able to clarify a request, the Mission shall be entitled to decline to deal with the request until such time as such clarification is provided.

- 4.3.** In the following exceptional cases the deadlines may be extended by 15 working days:
- a) in the case of complex or bulky applications.
 - b) if consultation of a third party is required.
- 4.4.** The applicant and the CPCC must be informed of any such extension and of the reasons for it.

5. Handling of replies

- 5.1.** Answers to initial applications is handled by the Mission Member holding the most relevant position to reply to the request, on the advice of the Head of Legal Office of the Mission. After consulting CivOps HQ, the reply should be signed by the Deputy Head of Mission.
- 5.2.** Answers to confirmatory applications are decided upon by the Head of Mission, after consultation with the Head of Legal office and CivOps HQ.

6. Third party documents held by the Mission

- 6.1.** Where the Mission receives an application for a document which it holds, but which originates from a third party, the third party must be consulted unless it is clear that the document should or should not be disclosed, in light of the exceptions set out in Regulation 1049/2001.
- 6.2.** The application will be granted without consultation of the third party if the document has already been made public by its originator.

7. Classified documents

- 7.1.** Where an application for access to a document concerns EU classified information (EUCI) within the meaning of Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU)⁸, it must be handled only by officials entitled to acquaint themselves with the document.
- 7.2.** Reasons must be given based on the exceptions listed in Article 4 of the Regulation 1049/2001 for any decision refusing access to all or part of a classified document. If access to the requested document cannot be refused based on those exceptions, the official handling the application will ensure that the document is declassified before it is sent to the applicant.
- 7.3.** Applications for access to sensitive documents must be handled only by those persons who have 'clearance' to consult such documents.

8. Modalities of access

- 8.1.** Documents to which access has been granted will be sent to the applicant by mail or email. If the documents requested are voluminous or difficult to handle, the applicant may be invited to consult them on the spot or if the request would lead to a disproportionate administrative burden the request can be refused, after the Mission has consulted the applicant to try to find a fair solution.
- 8.2.** If the document has been already released to the public, an answer may consist in informing the

⁸ OJ L 274, 15.10.2013, p. 1

applicant how to obtain the requested document (*i.e.* providing the web address where it may be found).

- 8.3.** An applicant shall not submit multiple separate requests to the same information in the same period.
- 8.4.** Applicants who are granted access to documents may publish the documents, except where the Mission clearly indicates that restrictions are necessary (copyright or other intellectual property rights).

9. Effect

- 9.1** This SOP will take effect on the day following its signature.
- 9.2** It will be published on the website of the Mission or be made available to Mission members via other appropriate means.