

ENISA Policy on Public Access to Documents (PAD) Requests

1 Scope and Purpose

The scope of this policy covers public access to documents (PAD) requests pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents. Decision No MB/2013/14, adopted by the ENISA Management Board in October 2013, lays down the arrangements for implementing Regulation (EC) No 1049/2001.

This policy addresses the practical modalities for the handling of PAD requests that are submitted to the Agency, including the relevant processes and workflows that are involved.

2 Background

Transparency is a guarantee of greater legitimacy, efficiency and responsibility of the public administration with respect to its citizens in a democratic system.

Article 15(3) TFEU states that:

“Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium, subject to the principles and the conditions to be defined in accordance with this paragraph”.

Article 18 of ENISA Founding Regulation (EU) 526/2013 states that *“Regulation (EC) No 1049/2001 shall apply to documents held by the Agency”*.¹ The arrangements for implementing this Regulation were adopted by the Management Board by way of MB Decision 2013/14.

In the interest of promoting the transparency of the Agency and supporting the timely and effective handling of PAD requests, it is necessary to establish a policy that outlines the process and key actors involved in this activity at ENISA.

3 Key Actors

The key actors associated with the handling of PAD requests at ENISA are as follows:

1. **The PAD request coordinator:** this function is performed by duly delegated staff within the ENISA Policy Unit. The PAD request coordinator:
 - a. Manages the functional mailbox that is used for PAD requests (access-to-docs@enisa.europa.eu).
 - b. Registers incoming requests and their replies on the PAD intranet page.
 - c. Sends acknowledgment of receipt to the requester.
 - d. Assigns requests to the responsible line manager.
 - e. Monitors deadlines and coordinates the reply.
 - f. Sends replies to PAD requests.

¹ This obligation will continue to apply to ENISA by virtue of Article 28 of the EU Cybersecurity Act once this new Founding Regulation enters into force: <https://data.consilium.europa.eu/doc/document/PE-86-2018-REV-1/en/pdf>

2. **The Line Manager:** PAD requests are assigned to the line manager(s) who is responsible for the activities to which the request relates. The line manager:
 - a. Assigns the PAD request within his/her Unit or Team.
 - b. Performs a quality control check of the draft reply produced by the delegated staff member, confirming that clear justification is provided on the basis of the applicable legal framework for any denial or partial disclosure of requested documents.
 - c. Where necessary, may consult the Data Protection Officer (DPO) during the drafting process for advice relating to any data protection aspects of the request.
 - d. Submits the draft for review by the Legal Officer and the DPO (where a data protection element is involved).
3. **The Data Protection Officer/Deputy DPO:** reviews draft replies where a data protection aspect is involved and makes an assessment on the basis of Regulation (EU) 2018/1725 and/or other relevant applicable data protection rules.
4. **The Legal Officer:** performs a legal check of the draft reply, in particular assessing whether the reply is in compliance with the applicable legal framework as contained in Regulation (EC) 1049/2001. The Legal Officer may also act as an approver of replies.
5. **The Head of Corporate Services:** replies are typically subject to the approval of the Head of Corporate Services. Where appropriate or in the event of the absence of the Head of Corporate Services, replies may also be approved by the Legal Officer or the Head of Resources.
6. **The Senior Manager:** depending on the nature of the request and where the Head of Resources and/or the Legal Officer and/or the Head of Corporate Services deem appropriate, a Head of Department or the ED may be involved in the workflow as an additional step to review and approve/reject replies subsequent to the approval of the Head of Resources, Head of Corporate Services or the Legal Officer.

4 Intranet Page and Functional Mailbox for PAD Requests

4.1 Intranet page

Incoming PAD requests and replies are stored in a folder in PO's private intranet page. Access to these requests and all relevant documentation is restricted to delegated PO staff, as well as the key actors mentioned in Section 3, as reflected in the relevant paperless workflow (Section 5).

An intranet page entitled "Public Access to Documents Requests" is made available under the Policy Unit section of the intranet (Core Operations -> PO). This intranet page is accessible to all ENISA staff and serves as an overview of existing PAD requests.

The "Public Access to Documents Requests" intranet page contains the following information:

1. A short description of the request;
2. A marking indicating whether the request is an initial request or a confirmatory application;
3. Date of receipt of incoming requests;
4. Date of outgoing replies;
5. Status (open or closed).

The aim of this intranet page is to facilitate effective accounting of PAD requests by producing an overview of the requests and their status.

4.2 Functional mailbox

The functional mailbox access-to-docs@enisa.europa.eu is used for receiving and replying to PAD requests. This functional mailbox is managed by the PAD request coordinator in the Policy Unit, or the assigned back-up staff where the PAD request coordinator is not available. All replies to PAD requests are issued through this functional mailbox.

5 Paperless Workflow for PAD Requests

In order to facilitate a structured approach to managing PAD requests, a paperless workflow process is used entitled “Public Access to Documents Requests”. This workflow will be marked as confidential. It contains the following actors:

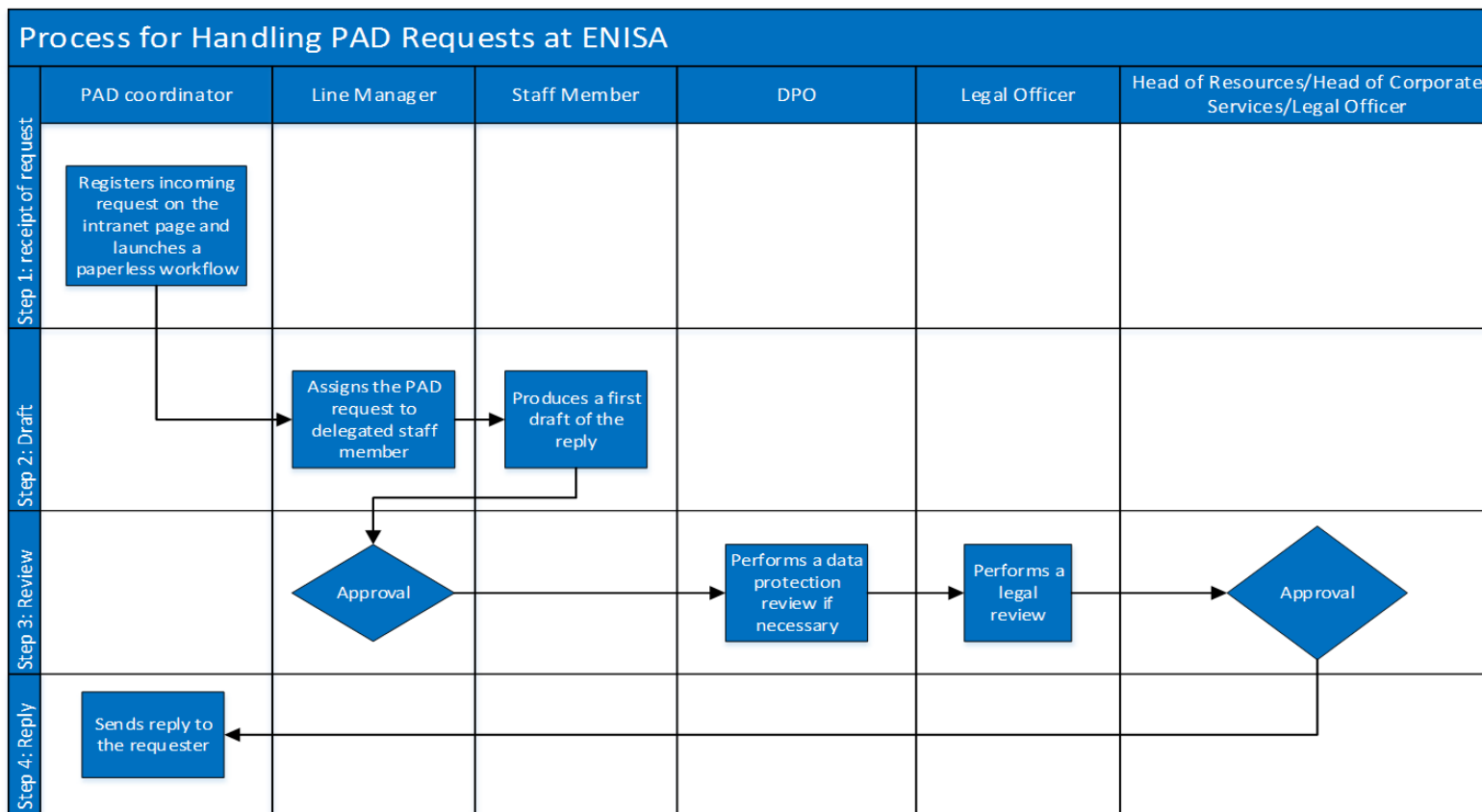
1. **Staff Member:** either the PAD request coordinator or assigned back-ups will launch the workflow and select the relevant line manager who is responsible for drafting the reply.
2. **Line Manager:** assigns the request to delegated staff in the line manager’s area of activity.
3. **Staff Member:** the delegated staff member produces a first draft of the reply to the PAD request.
4. **Line Manager:** performs a quality control check and approves/rejects the Staff Member’s draft.
5. **DPO/Deputy DPO:** reviews the draft from a data protection perspective if necessary.
6. **Legal Officer:** performs a legal review of the draft reply, and approves the reply where this function is not carried out by the Head of Corporate Services.
7. **Head of Corporate Services:** reviews and approves confirmatory applications.
8. **Head of Resources:** approval decisions may be taken by the Head of Resources.
9. **Senior Manager:** optional step to be included for additional approval of HoD/ED where necessary.
10. **Staff Member:** either the PAD request coordinator or assigned back-ups will close the workflow and send the approved reply to the requestor using the access-to-docs@enisa.europa.eu functional mailbox.

A paperless workflow is launched upon receipt of an initial request. Where a confirmatory application is received, a new paperless workflow may be launched. In the event that the paperless workflow for the initial application is still open, the same workflow may also be used for the confirmatory application with the necessary modification of the actors.

6 Duration and Review of this Policy

This policy will apply from the date of its approval. Any amendment to this policy requires the approval of the Executive Director via a paperless workflow.

Annex I: visualisation of the process for handling initial PAD requests at ENISA



* As the access to documents regime constitutes a two-stage administrative process, the line manager and the final approver should be different persons.

** The final approver in the case of a confirmatory application should be different from the final approver for the initial reply.