



EUROPEAN EDUCATION AND CULTURE
EXECUTIVE AGENCY (EACEA)

EACEA.R1 - People, Workplace and Communication

Brussels
EACEA.R1.002/IK

Sent by e-mail:
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Ms Luisa Izuzquiza
FragDenStaat
Open Knowledge Foundation
Deutschland e.V
Singerstr. 109
10179 Berlin, Germany

**Subject: Initial reply to your application for access to documents
(EACEA/ATD/06/2021) – Legal costs**

Dear Ms Izuzquiza,

I refer to your e-mail of 3 December 2021, addressed to the European Education and Culture Executive Agency (hereinafter "the Agency"), in which you request to disclose *“all guidelines, policies, instructions, rules, recommendations or regulations of any kind held by the Education, Audiovisual and Culture Executive Agency with regards to costs relating to litigation before the General Court of the EU and the European Court of Justice.”*

As for any request for documents, your request has been registered by the Agency¹ as an initial application for access to documents under Regulation (EC) No 1049/2001² and under the Agency's Steering Committee Decision³.

1. Identification of documents

¹ Registered on 10 December 2021, ref. Ares(2021)7640711.

² Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, OJ L145, 31.05.2001 (“Regulation (EC) No 1049/2001”).

³ Decision AE/2005/CD03/D-1 final of the Agency's Steering Committee of 13 June 2005, adopting implementing rules for the application of Regulation (EC) No 1049/2001, https://www.eacea.ec.europa.eu/about-eacea/document-register/access-eacea-documents_en

With respect to your request for access to documents, we have identified the following documents falling under the scope of Regulation (EC) No 1049/2001:

- Note of 31 March 2021, ref. Ares(2021)2233485 - “*Recouvrement de Dépens judiciaires*” with three annexes;

Please note that also the Financial Regulation⁴ applies in the Agency, which is available under the following link:

https://ec.europa.eu/info/publications/financial-regulation_en

Having examined the document “*Recouvrement de Dépens judiciaires*” and its annexes, I have decided to partially disclose these documents, redacted to protect personal data, as they contain personal data of individuals.

The reasons for this decision are set out below in the points 2 and 3.

2. Preliminary remark

A document to which access is given under Regulation (EC) No 1049/2001 falls perforce into the public domain and becomes accessible to the public at large. The Regulation is not intended to determine the conditions under which certain persons having a specific interest in the disclosure of certain documents may obtain access to them, when such public access is precluded under normal circumstances. Therefore, your request has to be assessed in the same way as if any member of the public had submitted it.

3. Exception regarding privacy and integrity of the individual

In principle, all documents of the EU institutions should be accessible to the public. However, certain public and private interests need to be protected by way of exceptions to access.

The document “*Recouvrement de Dépens judiciaires*” with annexes that you seek to obtain contain information concerning an identified or identifiable⁵ natural person (i.e. names and surnames of natural persons, their contact details, and professional positions of individuals of the Agency’s staff involved in the preparatory process of the document and in the costs recovery process but not forming part of the senior management), which constitute personal data of individuals and therefore are not publicly accessible.

Any individual requesting access to personal data must prove the necessity for the specific personal data to be transferred⁶. To fulfil the condition of necessity, the person

⁴ Regulation (EU, Euratom) 2018/1046 on the financial rules applicable to the general budget of the Union, OJ L193, 31.07.2018 – further as “Financial Regulation”.

⁵ Information that could be attributed to a natural person by the use of additional information.

⁶ See Articles 4 and 9 of Regulation (EU) 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 L 295, 21.11.2018.

who requests access to documents containing personal data must prove that the transfer of personal data:

- is needed for a specific purpose in the public interest;
- demonstrates no reason to believe that such a transfer might undermine the legitimate interests of the data subject, and
- is the most appropriate of the possible measures for attaining the applicant's objective, and it is proportionate to that objective.

In your email, you did not provide an explanation clarifying why transferring to you the documents referred to above is the most appropriate measure, or how it is proportionate. Therefore the Agency was unable to take into account the various interests of the parties involved, nor to verify whether there was any reason to assume that the data subjects' legitimate interests might be prejudiced. Hence, in order to safeguard the privacy and the integrity of the individuals involved, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, the personal data of the individuals concerned cannot be disclosed.

Therefore I decided to partially disclose the document "*Recouvrement de Dépens judiciaires*" and the three annexes with redacted parts that include personal data to safeguard the interests outlined in Article 4(1)(b) of Regulation (EC) 1049/2001.

4. Review possibilities

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Agency to review its position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Agency's Director at the following address:

Mr Roberto Carlini
The Director
European Education and Culture Executive Agency
Rue Joseph II 59
Office: J-59 07/005
B-1049 Brussels
e-mail: Roberto.Carlini@ec.europa.eu

Yours faithfully,

Ulrich SONDERMANN
Head of Unit

Enclosure:

- Note of 31 March 2021, ref. Ares(2021)2233485 - "*Recouvrement de Dépens judiciaires*" with three annexes