

AUTHORITY FOR EUROPEAN POLITICAL PARTIES AND EUROPEAN POLITICAL FOUNDATIONS

Decision of the Authority for European political parties and European political foundations of 24 July 2020

concerning public access to documents held by the Authority for European political parties and European political foundations

(2020/C 258/02)

THE AUTHORITY FOR EUROPEAN POLITICAL PARTIES AND EUROPEAN POLITICAL FOUNDATIONS,

Having regard to Article 15(3), third subparagraph, of the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations ⁽¹⁾, in particular Article 6(2), fourth subparagraph, thereof,

Whereas:

- (1) the second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen,
- (2) in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽²⁾, processing – and in particular disclosure – of personal data revealing political opinions may result in harm for natural persons,
- (3) Regulation (EU, Euratom) No 1141/2014 strikes a balance between the principle of transparency and the protection of private and public interests by detailing in Article 32 the information and documents considered to be of substantial public interest and warranting public disclosure,
- (4) access to documents of the Authority for European political parties and European political foundations should be granted, while taking into account the need to protect the effectiveness of administrative proceedings and the independence of the Authority, provided in Article 6 of Regulation (EU, Euratom) No 1141/2014,
- (5) in accordance with the principle of proportionality, the handling of requests for access to documents should not jeopardise the performance of the core tasks and functions assigned to the Authority for European political parties and European political foundations, i.e., registering, controlling and, where appropriate, imposing sanctions on European political parties and European political foundations,

⁽¹⁾ OJ L 317, 4.11.2014, p. 1.

⁽²⁾ Regulation (EU) 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

HEREBY ADOPTS THIS DECISION

Article 1

Purpose

The purpose of this Decision is to define the conditions, limits and procedures under which the Authority for European political parties and European political foundations (the 'Authority') shall give public access to documents which it holds.

Article 2

Beneficiaries and scope

1. Any citizen of the European Union and any natural or legal person residing or having its registered office in a Member State has a right of access to the documents of the Authority subject to the conditions laid down in this Decision.
2. The Authority may, subject to the same conditions, grant access to those documents to any natural or legal person not residing or having its registered office in a Member State.
3. This Decision shall apply to all documents held by the Authority, that is to say, documents drawn up or received by it and in its possession.

Article 3

Exceptions

1. The Authority shall refuse access to a document where disclosure would undermine the protection of:
 - (a) the public interest as regards: public security, defence and military matters, international relations, the financial, monetary or economic policy of the Union or a Member State;
 - (b) privacy and integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data; and
 - (c) the confidentiality of information that is protected as such under Union law.
2. The Authority shall refuse access to a document where disclosure would undermine:
 - (a) the protection of commercial or financial interests of a natural or legal person, including intellectual property;
 - (b) court proceedings and/or legal advice; and
 - (c) the purpose of inspections, investigations and audits.
3. Access to a document drawn up for internal use or received by the Authority, which relates to a matter where a decision has not been taken, shall be refused if disclosure of that document would undermine the Authority's decision making process.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations carried out within the Authority, or outside of it if the Authority participated in them, in particular for exchanges of views between the Authority and the European Parliament, the Council and the Commission, the National Contact Points, or the Committee of independent eminent persons, shall be refused even after a decision has been taken if disclosure of the document would undermine the Authority's decision making process.

4. The Authority shall refuse access to a document where disclosure would undermine compliance by European political parties and European political foundations with the obligations laid down in Regulation (EU, Euratom) No 1141/2014, or the Authority's ability to carry out its control activities.

5. If only parts of the requested document are covered by any of the exceptions in this Article, the remaining parts of the documents shall be released.
6. In the case of paragraphs 2–4 above, access shall nevertheless be granted wholly or partially, if an overriding public interest in disclosure exists.
7. If the application concerns a document held by the Authority but of which the Authority is not the author, the Authority shall confirm receipt of the application and supply the name of the person, institution or body to whom the application must be addressed.

Article 4

Submission of initial applications

1. Applications for access to a document of the Authority must be made in writing, either in hard copy or electronically, in any of the official languages of the Union.
2. The applicant is not obliged to state reasons for the application, but shall be requested at the time of making the application to provide information such as name, address and, where applicable, function.
3. Applications shall be made in a sufficiently precise manner and shall clearly identify the document requested.
4. If an application is not sufficiently precise, the Authority shall ask the applicant to clarify the application and shall assist the applicant in doing so.
5. In the event of an application relating to a very long document or to a very large number of documents, the Authority may confer with the applicant informally with a view to finding a fair solution.
6. Where an application has a wide temporal and/or material scope and the applicant does not clarify the application or refuses to cooperate, the Authority may reject the application as treatment of such an application could substantially impair the normal functioning of the Authority.

Article 5

Processing of initial applications

1. Applications for access to a document shall be dealt with by the Transparency Team of the Authority. A written acknowledgement of receipt shall be sent to the applicant promptly upon registration of the application.
2. Within 15 working days from registration of the application or, where applicable, receipt of the additional information requested in accordance with Article 4, the Authority shall either grant access to the document requested or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application.
3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 2 may be extended by 15 working days, provided that the applicant is notified in advance and that reasons are given.
4. Failure by the Authority to reply to an initial application within the prescribed time limit shall entitle the applicant to make a confirmatory application.

Article 6

Submission of confirmatory applications

1. In the event of a total or partial refusal of the initial application, or in the absence of any reply to the initial application, the applicant may make a confirmatory application.
2. Confirmatory applications shall be submitted to the Director of the Authority within 15 working days of either receiving the Authority's reply or, in the absence of any reply to the initial application, the expiry of the deadline for the reply.

*Article 7***Processing of confirmatory applications**

1. Within 15 working days from registration of a confirmatory application, the Authority shall either grant access to the document requested or, in a written reply, state the reasons for the total or partial refusal.
2. In the event of a total or partial refusal, the Authority shall inform the applicant of the remedies open to him or her to challenge that refusal, namely instituting court proceedings or making a complaint to the European Ombudsman, under the conditions laid down in Articles 263 and 228 of the Treaty on the Functioning of the European Union.
3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 2 may be extended by 15 working days, provided that the applicant is notified in advance and that reasons are given.
4. Failure to reply to a confirmatory application within the prescribed time limit shall be considered as a negative reply and entitle the applicant to make use of the remedies set out in paragraph 2.

*Article 8***Access following an application**

1. The Authority shall not be required, by virtue of this Decision, to create a new document or format or gather additional information at the request of the applicant.
2. The Authority shall supply copies of the documents to which access was granted in paper or electronic form. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents on the spot.
3. A fee for producing and sending copies may be charged to the applicant. This fee shall not exceed the real cost of producing and sending the copies. The applicant shall be informed beforehand of the costs and asked if he or she wishes to proceed with the application. Consultation on the spot, copies of less than 20 A4 pages and access in electronic form shall be free of charge.
4. If a document is publicly accessible, the Authority may fulfil its obligation of granting access to the requested document by informing the applicant where to obtain it.

*Article 9***Reproduction of documents**

1. Documents released in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the Authority's prior written authorisation.
2. This Decision shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.
3. The Authority shall assume no liability for any unlawful or unauthorised use, disclosure or reproduction of released documents.

*Article 10***Abusive behaviour**

The Authority shall reject applications that are abusive or artificial. This includes applications lodged by individuals using offensive or threatening language.

Article 11

Entry into force

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 24 July 2020.

*For the Authority for European political parties and
European political foundations*

M. ADAM

Director
