



European Research Council
Executive Agency

Established by the European Commission

**REPORT ON THE APPLICATION IN 2023 OF REGULATION
(EC) No 1049/2001 REGARDING PUBLIC ACCESS TO
EUROPEAN PARLIAMENT, COUNCIL AND COMMISSION
DOCUMENTS**

February 2024

BACKGROUND

The right of access to documents¹ held by the European Research Council Executive Agency (ERCEA) is established in Article 15 (3) of the Treaty on Functioning of the European Union and [Regulation \(EC\) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 on public access to European Parliament, Council and Commission documents](#) .

The ERCEA Steering Committee adopted detailed rules to implement the provisions of Regulation (EC) No 1049/2001².

The Agency shall publish yearly statistical information based on the number of requests, refusals, and the reason of such refusals to meet the obligation of Article 17(1) of Regulation (EC) No 1049/2001 and Article 11 of the Steering Committee Decision.

This report provides a summary of statistical data of how ERCEA implemented the aforementioned Regulation in 2023. The statistics reflect the number of applications for access to documents received and replies provided. However, they do not reflect the number of documents requested and partially disclosed or refused, which were, indeed, more numerous. It also happens that applicants requested access to several documents simultaneously in one application.

Requests can be submitted either via the electronic submission tool provided on the [ERC website](#) or directly by e-mail to the ERCEA Access to Documents functional mailbox³. A written request for public access to ERCEA's documents via regular mail (post) is also possible. In principle, ERCEA uses the same means of communication chosen by the applicant for the reply and for the delivery of the pertinent documents. In line with the Commission's pledge to become a paperless administration, the requirement to send certain categories of replies via registered mail (post) has been further reviewed. Following Commission guidance, all replies, except negative ones, which should normally be sent via registered post, have been sent only by e-mail with an explicit request for an acknowledgment of receipt from the applicants.

Finally, during the reporting period, ERCEA continued to proactively publish a wide range of information and documents on the [ERC website](#). The section '[Document Library](#)' of the ERC website provides a list of documents immediately downloadable or links to existing documents.

¹ "Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents" of the Union's institutions, bodies, offices and agencies, whatever their medium.

² Decision of the Steering Committee of the ERCEA of 18 February 2009 on the implementation of 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

³ ERC-ACCESS-TO-DOCUMENTS@ec.europa.eu

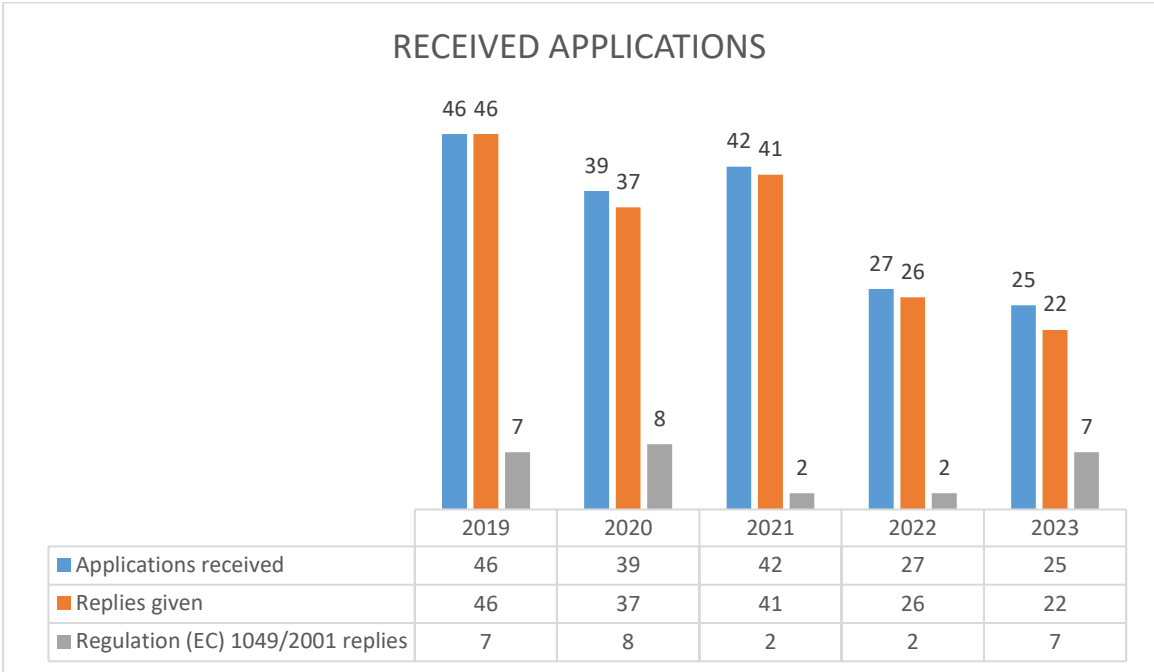
APPLICATIONS FOR ACCESS TO DOCUMENTS

1. INITIAL APPLICATIONS

1.1. Number of applications received and handled in 2023

In 2023, ERCEA received 10 initial applications and one confirmatory application through the ERCEA Access to Document functional mailbox, which were registered and handled under Regulation (EC) No 1049/2001 ('requests for access to documents'). One application was withdrawn by the requestor. One of the initial applications for access to documents and the confirmatory application were received at the end of 2023 and were, thus, replied by ERCEA at the beginning of 2024. Also, one application submitted in November 2023 was identified by our system as a spam and, as a result, it was replied with a delay at the beginning of 2024.

ERCEA also received 15 additional requests through the same mailbox, which did not fall under Regulation (EC) No 1049/2001 and were, therefore, handled as requests for information under the Code of Good Administrative Behaviour ('requests for information').

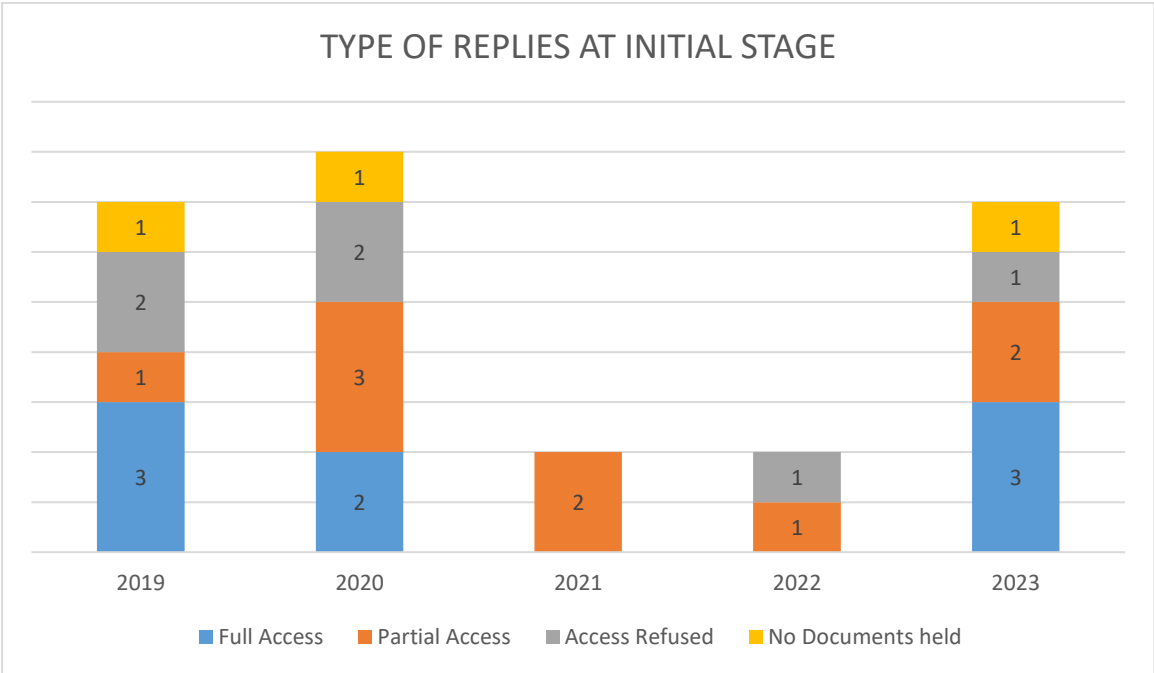


1.2. Type of access to document replies given at initial stage in 2023

ERCEA has the right to refuse access to documents that, if disclosed, would harm one or several of the public or private interests listed in Regulation (EC) No 1049/2001. The documents in the possession of the Agency may be partially or wholly covered by the exceptions to public access defined in Article 4 of Regulation (EC) No 1049/2001. Any refusal, whether full or partial, must be justified under at least one of these exceptions.

In some cases, the EU Courts have recognised a general presumption of non-disclosure that ERCEA may use to refuse access, particularly for documents related to OLAF investigations, pending court cases, bids submitted by other tenderers in procurement procedures, grant proposals submitted by other candidates, or written questions asked in staff selection procedures.

ERCEA granted full access in three requests and refused access in one based on the application of the general presumption of non-disclosure of grant proposals established by the EU Courts. Partial access was granted in two requests, as full disclosure was prevented by the need to protect the privacy and integrity of individuals and the commercial interests of the document authors. In one case, no documents were held. Three cases were closed because the requester was no longer interested.

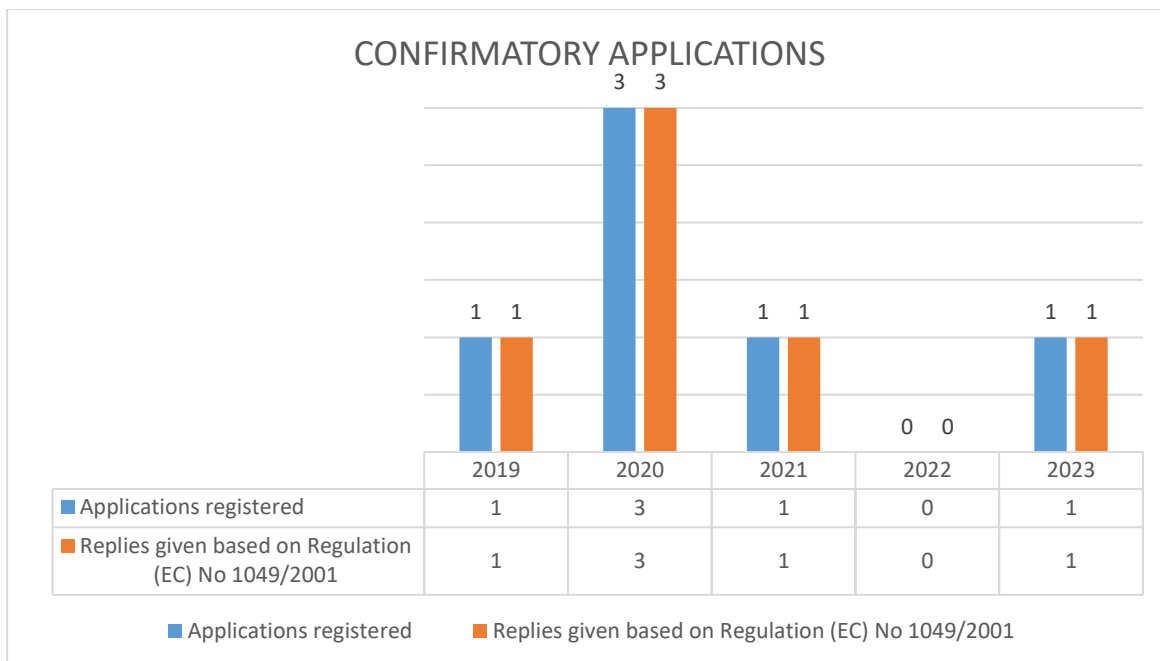


2. CONFIRMATORY APPLICATIONS

In the event of a total or partial refusal to grant access to requested documents or in case of failure by ERCEA to reply within the time-limit prescribed in Regulation (EC) No 1049/2001, the applicant may submit to the ERCEA Director a request for review, i.e., a confirmatory application.

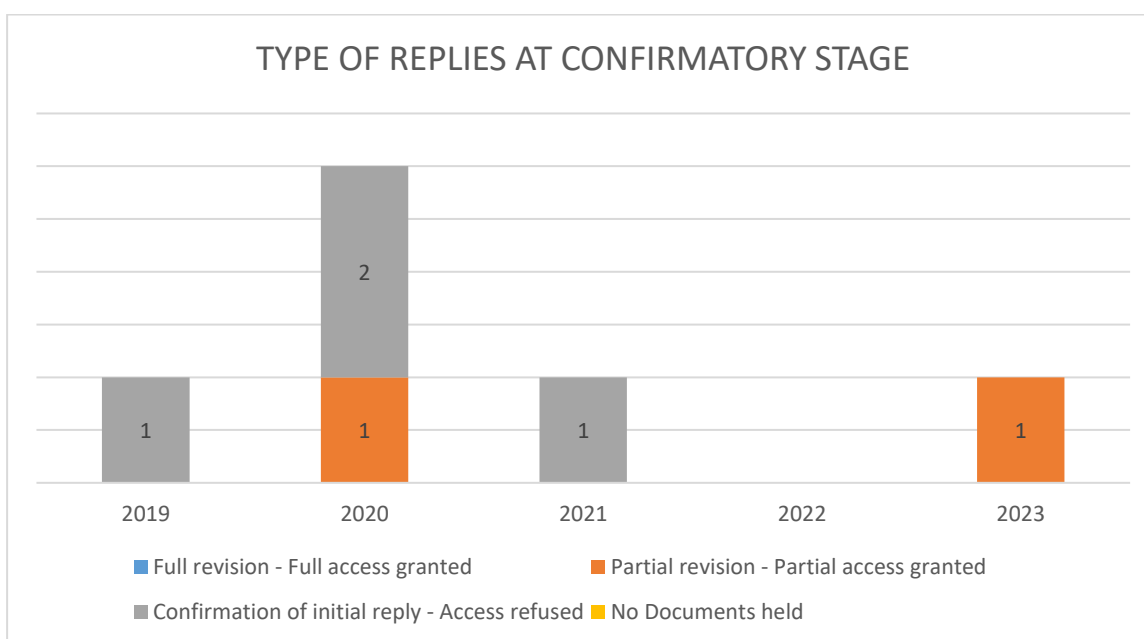
2.1. Number of confirmatory applications received and handled in 2023

In 2023, ERCEA received one confirmatory application challenging an initial reply under Regulation (EC) No 1049/2001.



2.2. Type of replies given at the confirmatory stage

In the only confirmatory case of 2023, we partially revised our initial reply, but still provided partial disclosure because of personal data protection considerations.



3. INVOKED EXCEPTIONS⁴ TO THE RIGHT OF ACCESS

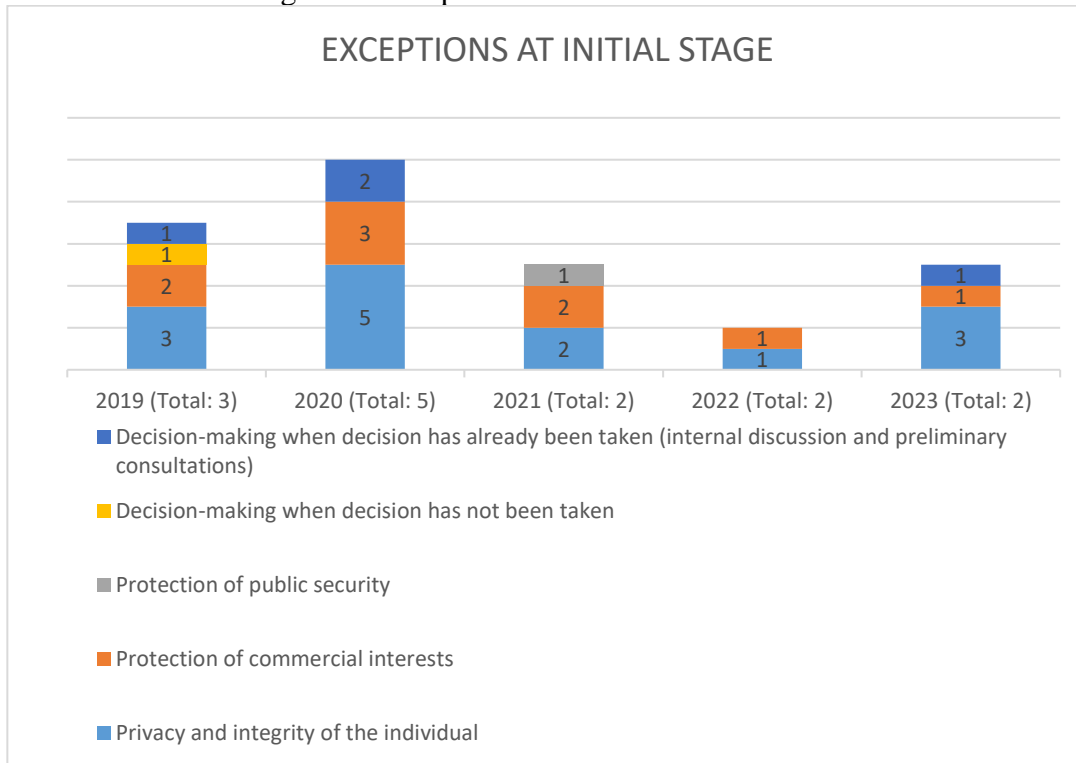
The right of access provided in Regulation (EC) No 1049/2001 is subject to a number of specific exceptions, which are set forth in Article 4 of the Regulation. Any refusal, whether full or partial, must be justified under at least one of these exceptions.

⁴ On the basis of Article 4 of Regulation (EC) No 1049/2001

3.1. Initial stage

In 2023, the protection of the *privacy and integrity of the individual*⁵ remained the most frequently invoked exception, as in previous years.

The European Courts have established a general presumption of non-disclosure of grant applications, based on the protection of the *privacy and integrity of the individual*⁶ and the *commercial interests of a natural or legal person, including intellectual property*⁷, and this even after finalisation of the grant award procedure.



3.2. Confirmatory stage

One confirmatory application was replied by the ERCEA in 2023.

⁵ This exception is provided under Article 4 (1) (b) of Regulation (EC) No 1049/2001: “*The institutions shall refuse access to a document where disclosure would undermine the protection of: (...) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.*”

⁶ Article 4(1)(b) of Regulation (EC) No 1049/2001

⁷ Article 4(2) first indent of Regulation (EC) No 1049/2001

EXCEPTIONS AT CONFIRMATORY STAGE

