

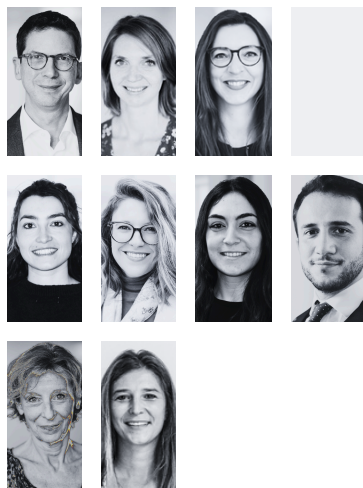


# the FFICI@L

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## EDITORIAL

Dear readers,

Your *Offici@l* returns at the beginning of 2026 with a special focus on the right of access to files and documents.

In case law, a recent judgment of the Court of Justice of the European Union on tax relief has caught our attention.

Finally, the measures relating to the “low emission zone” affecting vehicle circulation in Brussels will be covered in our “Belgian Law” section.

Is there a topic you feel strongly about? The next issue of the *Offici@l* could be dedicated to it!

Feel free to contact us by email: [theofficial@daldewolf.com](mailto:theofficial@daldewolf.com).

The DALDEWOLF team

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# Focus – Right of Access to the File and to Documents

## Transparency in practice: how to exercise your right to access documents?

Who has never wondered about the procedures for obtaining access to documents? Whether to understand a decision adversely affecting the interests of the concerned staff member or to properly prepare a defense, access to information remains a crucial issue. The principles of sound administration and transparency, which are fundamental to the proper functioning of the European institutions—particularly in the employment relationship with officials and agents—help prevent misunderstandings and misinterpretations. It is not uncommon for certain disputes to arise from a lack of transparency, particularly when individuals have been unable to obtain the documents needed to understand or challenge a disputed decision.

The aim of this article is therefore to examine the various procedural avenues available to European officials and agents to obtain access to documents that concern them or that are necessary for the exercise of their rights. It will also highlight the distinctions that exist between these mechanisms, both legally and in practice.

First of all, it is important to emphasize that several legal frameworks govern access to documents within the European Union. However, the application of these rules varies depending on the nature of the documents sought and the purpose pursued by the individual concerned.

Firstly, Article 26 of the EU Staff Regulations (Articles 11 and 81 of the CEOS for the agents)—grants every official the right, including after termination of service, to consult all documents in their personal file and to obtain copies thereof. This file includes, in particular, documents relating to their administrative situation, as well as reports on their ability, efficiency or conduct. Thus, an agent wishing to access information concerning their administrative situation (e.g. recruitment, employment status, secondment, etc.), their assessment reports or possible disciplinary sanctions may simply invoke Article 26 and submit a written request to the administration. By contrast,

access to medical files falls under Article 26a of the EU Staff Regulations: the request must be submitted through a doctor chosen by the person concerned, who cannot access personal notes made by doctors where confidentiality is necessary to protect the person concerned or the rights of others (CSC, 16 September 2013, CN/Council, F-84/12, EU:F:2013:128). If the administration rejects a request for access under these provisions, the individual may submit a complaint under Article 90(2) of the EU Staff Regulations within three months of the refusal.

Secondly, the individual may also submit a written request for access on the basis of Article 41(2)(c) of the EU Charter of Fundamental Rights, which provides that everyone has the right to access their file, subject to the legitimate interests of confidentiality, professional secrecy and business secrecy. The request must be addressed to the authority holding the information sought. According to case-law, the concept of a “file” for the purposes of this provision is broader than that in Article 26 of the Staff Regulations and may include, for example, an investigation report (GC, 8 October 2025, CQ/EESC, T-117/24, EU:T:2025:948)—which is not the case for the personal file referred to in Article 26 of the Staff Regulations (CFI, judgment of 2 April 1998, Apostolidis/Court of Justice, T-86/97, EU:T:1998:71). It should also be noted that the individual concerned may combine Article 41 of the Charter with Articles 26 and 26a of the Staff Regulations when submitting a request for access. If the administration rejects a request based on Article 41 of the Charter, the individual may likewise lodge a complaint under Article 90(2) of the EU Staff Regulations.

Thirdly, individuals may invoke Article 6 of Regulation 1049/2001 regarding public access to documents of the European Parliament, the Council and the Commission. It should be recalled that when making such a request, the person acts not as a member of staff, but as an EU citizen (Article 1(1) of the Regulation), seeking access to all documents held by the institutions in all areas of EU activity. This right is therefore broader than that provided under Article 41 of the Charter or Articles 26 and 26a of the Staff Regulations (GC, judgment of 16

July 2025, Ballmann/EDPS, T-183/23, EU:T:2025:735). The purpose of the Regulation is to ensure the greatest possible transparency of public authorities' decision-making processes and the information underlying those decisions. Its primary aim is therefore to facilitate the exercise of the right of access to documents and to promote good administrative practices (CJEU, judgment of 29 June 2010, Commission/Bavarian Lager, C-28/08 P, EU:C:2010:378). Requests to access to documents do not need to be reasoned but must be submitted in writing and specify the documents sought. However, this is not an absolute right: Article 4 of the Regulation provides for several exceptions, including the protection of essential public interests (public security, defence, etc.), privacy and personal data, commercial interests, and judicial proceedings or audit/investigation activities that could be compromised by disclosure. Access may nevertheless be granted where an overriding public interest justifies it. These exceptions must be interpreted strictly (GC, judgment of 10 September 2025, Nouwen/Council, T-255/24, EU:T:2025:865). Unlike requests based on Article 41 of the Charter or Articles 26/26a of the Staff Regulations, refusals (total or partial) under Regulation 1049/2001 may be challenged by submitting a confirmatory application within 15 working days (Articles 7(4) and 8 of the Regulation).

Lastly, Regulation 2018/1725 on the protection of natural persons with regard to the processing of personal data by the EU institutions, bodies and agencies—the EU administration's "internal GDPR"—may also be invoked by individuals seeking information about their personal data or requesting its transfer (Article 17(3)-(4)). This right

exists solely to verify that their data is being processed lawfully under the Regulation. The request must be made in writing to the data protection officer (the DPO). This Regulation may also apply in cases where access to documents has been requested under Regulation 1049/2001, helping determine whether a refusal of access is justified on the basis of the protection of third parties' personal data. Disclosure is possible only if it is necessary, does not prejudice the interests of the person concerned (Article 9(1)(a)-(b)) and constitutes lawful processing under Article 5 (GC, judgment of 6 April 2022, Saure/Commission, T-506/21, EU:T:2022:225). In principle, to reconcile access rights and data protection, the institution may provide a redacted version of the documents. In the event of refusal, the individual may lodge a complaint with the European Data Protection Supervisor within two years of becoming aware of the unlawful situation of his data processing (Article 14(4)).

In conclusion, access to documents is governed by several distinct mechanisms, each serving its own purpose: the EU Staff Regulations govern access to the personal file, Article 41 of the Charter provides access to the broader administrative file of the concerned staff member, Regulation 1049/2001 governs transparency for all citizens, and Regulation 2018/1725 protects personal data. Although these frameworks differ, they may be strategically combined depending on the nature of the documents sought and the purpose pursued. When used effectively together, they offer a complete set of tools enabling individuals to fully exercise their right to information.

## Case-law - C-137/24 P (Heßler/Commission)

### Facts

Mr Heßler is an official of the Commission and the father of two daughters. As such, he received, until each daughter's 26th birthday, the dependent child allowance as well as the tax abatement. Subsequently, at different times, he submitted to the PMO ("Office for the Administration and Payment of Individual Entitlements") certificates of studies concerning his daughters, in order to obtain an extension of the tax abatement, as his daughters were still pursuing their education despite having

exceeded the age of 26. However, the PMO informed him that, in the absence of entitlement to the dependent child allowance, the tax abatement could no longer be granted.

Mr Heßler then lodged a complaint under Article 90(2) of the Staff Regulations, which was rejected by the Commission. He subsequently brought an action before the General Court of the European Union against that decision. By judgment of 20 December 2023 (Case T-369/22), the General Court dismissed the action. Contesting that judgment,

the applicant lodged an appeal before the Court of Justice.

In its judgment of 27 November 2025, the Court partially set aside the General Court's judgment.

### Assessment by the Court

The Court analyses the legal regime applicable to the tax abatement for a dependent child. Article 2 of Annex VII to the Staff Regulations provides that an allowance for a dependent child is granted to officials: automatically until the age of 18, and on application, with supporting evidence, by the official for children between 18 and 26 who are receiving educational or vocational training. This allowance may also be granted without age limitation when the child suffers from a serious illness or disability preventing them from supporting themselves, and a person actually maintained by the official may exceptionally be treated as a dependent child when such maintenance entails a heavy financial burden. Furthermore, pursuant to Article 3 of Regulation No 260/68, each dependent child also gives rise to a tax abatement equal to twice the amount of that allowance.

In its judgment, the Court confirms, like the General Court, that entitlement to this tax abatement is linked to the conditions for granting the dependent child allowance. In the absence of entitlement to the allowance under Article 2 of Annex VII to the Staff Regulations, neither the granting nor the extension of the tax abatement is possible. The entitlement therefore ends, except for strictly defined exceptions, at the latest on the child's 26th birthday.

However, the Court specifies - contrary to the General Court's analysis and in line with the Advocate General's conclusions of 12 June 2025 - that Regulation No 260/68 does not make the tax abatement conditional on the actual payment of

the allowance. The two mechanisms nevertheless remain linked, as they pursue the same social objective and are justified by the real and current expenses associated with the existence of a child and their actual maintenance. Their granting therefore depends on the existence of a dependent child or an assimilated person. The Court adds that the concept of "dependent child" must be interpreted in light of Article 2 of Annex VII to the Staff Regulations as a whole.

It should be recalled in this respect that, according to the case-law (CG, 5 June 2024, VA v Commission T-123/23, EU:T:2024:359, § 40), for children aged between 18 and 26 who are completing their studies, the entitlement to the allowance - and thus, consequently, to the tax abatement - ends on the date when the educational institution makes the final results available. It is therefore the official's responsibility to inform the administration as soon as these results are communicated, in order to allow the immediate cessation of allowance payments.

Finally, the Court reaffirms in its judgment in Case C-137/24 P that the Union's legislative rules on tax abatement cannot be amended by internal acts of the institutions. Thus, an internal Commission directive constitutes only a non-binding code of conduct that the administration imposes on itself and cannot derogate from binding and hierarchically superior norms such as the provisions of the Staff Regulations or Regulation No 260/68.

### Conclusions

The Court clarifies that entitlement to the tax abatement for a dependent child does not depend on the actual payment of the dependent child allowance, but that this tax advantage is nonetheless subject to the conditions giving rise to the allowance, which, except for clearly defined exceptions, cease at the latest on the child's 26th birthday.

## Belgian Law – The Next Steps of the Low Emission Zone in Brussels

### A timeline for implementation

Since 2018, the Brussels-Capital Region has enforced a Low Emission Zone (LEZ) aimed at reducing vehicle-related pollution and improving air quality.

The LEZ is defined as a zone in which access for certain motor vehicles is restricted or prohibited in order to combat air pollution and improve air quality. The legal basis for establishing such zones was created by the Ordinance of 2 May 2013 "establishing the Brussels Code on Air, Climate and

Energy Management” (CoBrACE).

Restrictions are gradually imposed on the most polluting vehicles, following a precise timeline published on the official LEZ website under the “Practical – Agenda” section. This agenda is an essential tool for anticipating upcoming prohibitions, preparing for vehicle renewal, or adapting one’s mobility habits.

The strategy is part of a transition towards the phase-out of combustion engines:

- Diesel: gradually prohibited until a complete phase-out by 2030
- Petrol: increasing restrictions until their full prohibition by 2035

However, several initial deadlines have been postponed. Following a vote in the Brussels Parliament on 4 October 2024, the LEZ milestone initially set for 1 January 2025 has been postponed to 1 January 2027 for all affected vehicles.

Nonetheless, new rules entered into force on 1 January 2026.

### Can your vehicle circulate in the LEZ?

The LEZ applies across the entire Brussels-Capital Region, except for the Ring Road and certain access points to park-and-ride facilities (P+R), allowing drivers to leave their vehicles outside the city.

Each vehicle category — vans, minibuses, buses, coaches, trucks, motorcycles — follows its own specific timetable, based on Euro standards and environmental impact.

- Vehicles running on CNG, LNG, LPG or bioethanol are treated as petrol vehicles.
- Hybrid or plug-in hybrid vehicles follow the rules applicable to their main engine: petrol hybrids follow petrol rules; diesel hybrids follow diesel rules.
- Electric and hydrogen vehicles are always authorised and automatically exempt.
- Certain vehicles no longer authorised in the LEZ may still obtain a derogation or use a daily pass.

These rules also apply to foreign vehicles. To circulate in the LEZ, they must be registered online beforehand.

### The Euro standard

Your vehicle’s Euro standard indicates its pollution level. The higher the number, the cleaner the vehicle.

You can determine it as follows:

1. Check your registration certificate (field V9).
2. If the Euro standard is not shown, use the first registration date or the type-approval code found on the certificate, then consult the official correspondence tables.

If you believe the Euro standard stated on your certificate is incorrect or missing, you may request a correction from the DIV or via a dedicated form with Brussels Fiscality, supported by evidence such as the European Certificate of Conformity (COC).

### New rules from 2026

Following the judgment of the Belgian Constitutional Court of 11 December 2025 (Judgment No. 174/2025), EURO 5 diesel vehicles and EURO 2 petrol vehicles (cars, vans, buses, trucks), as well as petrol motorcycles below Euro 3, are no longer permitted to circulate in the Brussels Region.

The Court considered that the amended Brussels ordinance significantly reduced the environmental protection level, as it allowed more polluting vehicles to circulate beyond the initially planned deadlines, with a direct impact on public health.

From 1 January 2026, motorists in breach will first receive a warning letter, giving them time to comply. The first €350 fine will only be issued three months after the initial infringement.

To avoid penalties, it is essential to verify in advance whether your vehicle is authorised using the online simulator. If your vehicle is not compliant, you may purchase a one-day pass (up to 24 passes per year) to access Brussels occasionally.