



GUIDANCE TO USERS FOR GRANTING ACCESS TO OR NOTIFYING DOCUMENTS VIA eLENIENCY

The present notice provides guidance for companies and their legal representatives on how to receive access to or be notified documents at the European Commission's premises via eLeniency in the context of leniency, cartel settlement and non-cartel cooperation proceedings.

I. OVERVIEW OF PROCESS

The process of granting access to or notifying documents via eLeniency is explained below. Figure 1 also displays an overview of this process.

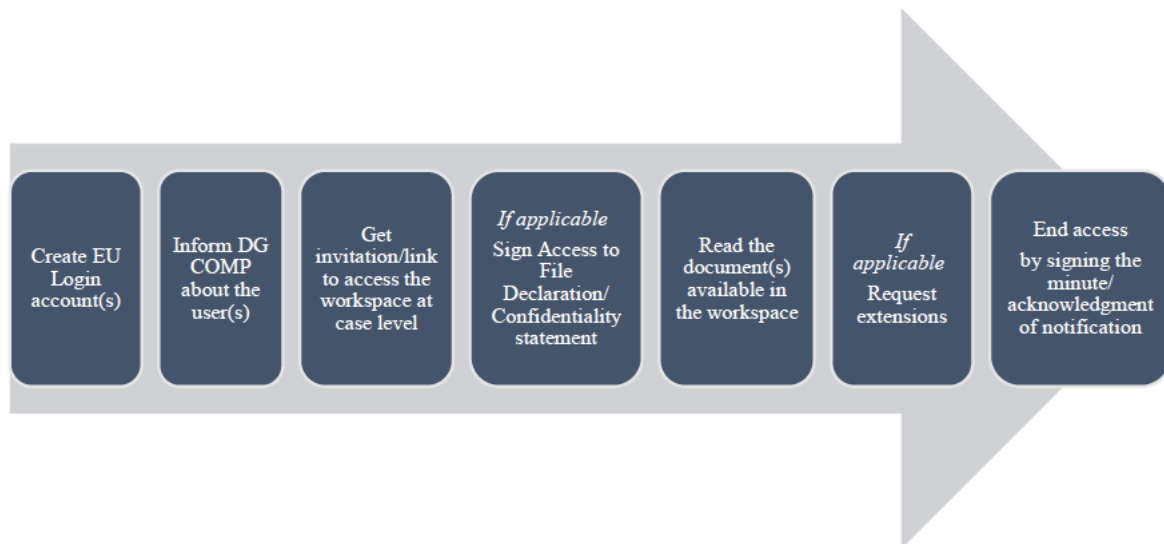


Figure 1: Basic process to receive access to/be notified documents via eLeniency

- (1) The case teams of DG Competition grant access to or notify documents to parties in read-only mode via dedicated workspaces at case level.
- (2) All users of each party, as previously communicated to DG Competition, receive an email invitation with information from the case team about the relevant workspace and the period during which access will be given. The day when access starts (if different from the date of the initial invitation), parties receive an additional email notification with the link to the relevant workspace.

- (3) Depending on the addressees of the document(s), one or multiple parties can get access to a workspace:
 - One-party workspaces: for documents addressed only to one party (e.g. requests for information under Point 12(a) of the Leniency Notice, immunity decisions, etc.);
 - Multi-party workspaces: for documents addressed to multiple parties (e.g. decisions to initiate proceedings, access to the file at Commission's premises). Access to multi-party workspaces may be granted simultaneously to all parties.
- (4) Access to workspaces is granted over a predefined duration decided by the case team based on the number and length of documents in the workspace. Requests for extensions can be handled in the tool.
- (5) Before getting access to certain workspaces, all users of each party must accept the access to file and confidentiality rules.
- (6) To end access to any workspace, once done with the review of the documents, one user per party must sign a minute/acknowledgement of notification before the period of access expires.

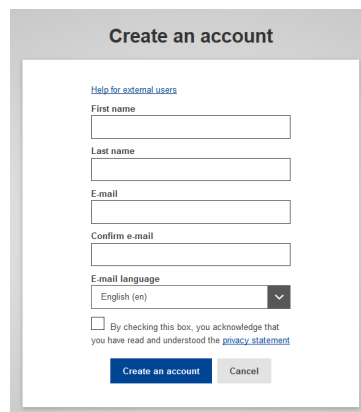
II. STEPS OF PROCESS

Following the steps described below, parties will be able to receive access or be notified documents via eLeniency.

(1) Log in to eLeniency with an EU Login account

Recommended browsers: Google Chrome, Mozilla Firefox, Edge.
[Not supported: Internet Explorer]

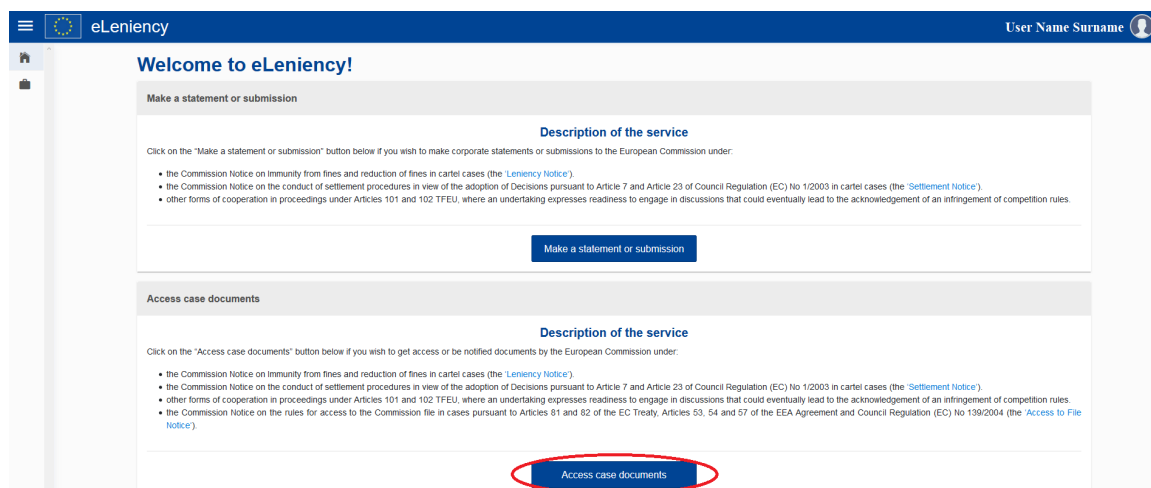
- To access [eLeniency](#) for the first time, users must first create an [EU Login](#) account (or use an existing EU Login account). Each lawyer representing a party or each company representative must create an individual EU Login account.



- Parties must then inform DG Competition of their users, by sending an email to the case team and indicating the names, surnames and email addresses linked to their EU Login accounts.
- A user guide on how to log in to EU Login account using Two-Factor Authentication is available [here](#).

(2) Access the list of workspaces

- On the homepage of eLeniency, choose the second option “Access case documents”.



- After reading the full description of the service and the disclaimer, go to the bottom of the page and click the “Access case documents” button.

The eLeniency system is made available to undertakings and their legal advisers as a web-based information system that may be used by the European Commission to grant access to or notify documents under:

- the Commission Notice on immunity from fines and reduction of fines in cartel cases (the [Leniency Notice](#));
- the Commission Notice on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases (the [Settlement Notice](#));
- other forms of cooperation in proceedings under Articles 101 and 102 TFEU, where an undertaking expresses readiness to engage in discussions that could eventually lead to the acknowledgement of an infringement of competition rules;
- the Commission Notice on the rules for access to the Commission file in cases pursuant to Articles 81 and 82 of the EC Treaty, Articles 53, 54 and 57 of the EEA Agreement and Council Regulation (EC) No 139/2004 (the [Access to File Notice](#)).

For general information about the Commission's leniency, settlement and access to file procedures, please refer to:

- https://competition-policy.ec.europa.eu/cartels/leniency_en
- https://competition-policy.ec.europa.eu/cartels/settlement_en
- https://competition-policy.ec.europa.eu/antitrust/procedures/access-file_en

The eLeniency system is an alternative to the procedure used by the Commission to grant access to or notify leniency or settlement documents at the European Commission's physical premises. The eLeniency system offers guarantees equivalent to the access or notification procedure at the European Commission physical premises.

The eLeniency system may be used in order to get access to or be notified by the Commission the following:

1. Letters and decisions in the context of an application for immunity from fines or for a reduction of fines under the Leniency Notice (e.g. letter granting a marker, acknowledgement of receipt of the application for immunity from fines or a reduction of a fine, requests for information under point (12)(a), second indent, of the Leniency Notice).
2. Letters, decisions and other documents in the context of proceedings under the Settlement Notice (e.g. decision to initiate proceedings, leniency band decisions, statement of objections, etc.).
3. Letters, decisions and other documents in the context of other forms of cooperation in proceedings under Articles 101 and 102 TFEU, where an undertaking expresses readiness to engage in discussions that could eventually lead to the acknowledgement of an infringement of competition rules (e.g. decision to initiate proceedings, statement of objections, etc.).
4. Corporate statements and other leniency material accessible only at the Commission's premises in the context of the access to the Commission file under the Access to File Notice, the Leniency Notice and the Settlement Notice.

Disclaimer

Access to a statement/submission made using the eLeniency system in the context of an application for immunity from fines and/or reduction of fines, in accordance with the Leniency Notice, may only be granted to the addressees of a statement of objections relating to administrative proceedings under European Union competition rules, under the condition that such addressees do not to make any copy by mechanical or electronic means of any information contained in that statement/submission. The information thereby obtained from that statement/submission may only be used by those addressees having obtained access to the statement/submission in question for the purposes of judicial or administrative proceedings for the application of the European Union competition rules at issue in the related administrative proceedings.

Privacy statement: https://competition-policy.ec.europa.eu/system/files/2021-05/privacy_statement_antitrust_en.pdf

Before getting access or notification through the eLeniency system, users must

- for access to the file only, undertake not to make mechanical or other photo-visual copies of the documents or transcripts of recordings to which access is being granted via eLeniency and to fully abide by the rules for access to file at the Commission's premises, in line with Article 15 and Article 16a of Commission Regulation (EC) No 773/2004; and;
- for settlement only, undertake to keep the settlement discussions confidential as well as the information disclosed and discussed during them, including any knowledge of evidence acquired during this procedure, vis-à-vis third parties, in line with Article 104(2) of Commission Regulation (EC) No 773/2004 and recital 7 of the Settlement Notice.

* Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18), as amended by Commission Regulation (EC) No 622/2008 (OJ L 171, 1.7.2008, p. 3) and Commission Regulation (EU) 2015/1348 (OJ L 208, 5.8.2015, p. 3).

Access case documents

- You can then see the list of workspaces available to you.

Workspaces

Workspaces available

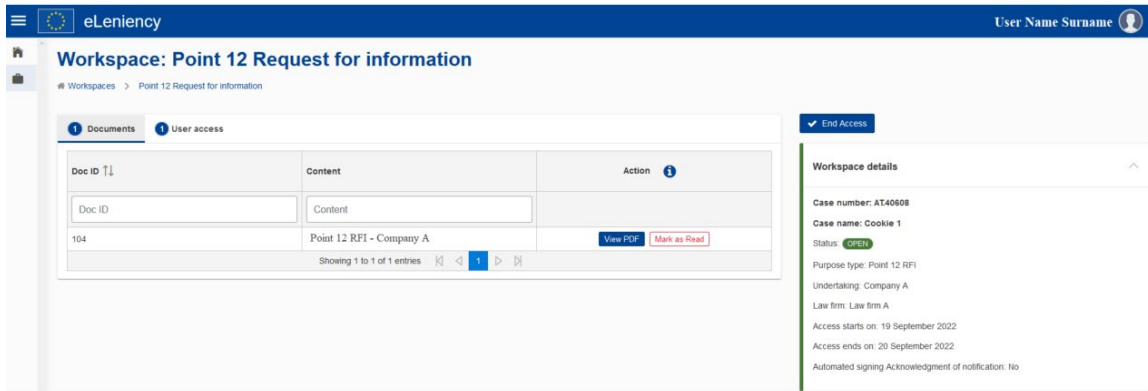
Search Workspaces

Case number	Workspace name	Workspace ID	Workspace access status	Access start day	Access end day	Actions
AT.40608	A2F at EC Premises	1200	Access granted	19 September 2022	20 September 2022	View workspace
AT.40608	Statement of Objections	1281	Access ended	19 September 2022	20 September 2022	View workspace
AT.40608	Immunity Decision	1161	Access expired	08 September 2022	13 September 2022	View workspace Request extension

Note: The list of workspaces provides information on the workspaces to which you were granted access, including the Case number, Workspace name/ID, Workspace access status (e.g. Access granted/ended/expired), Access start/end days, and the available actions (e.g. View workspace, Request extension (if applicable)).

(3) Access the relevant workspace

- To get access to the relevant workspace, directly click the workspace link from the email notification received on the day when access is granted.
- Another option is to log in to eLeniency and open the relevant workspace from the list of workspaces (see point (2) above).

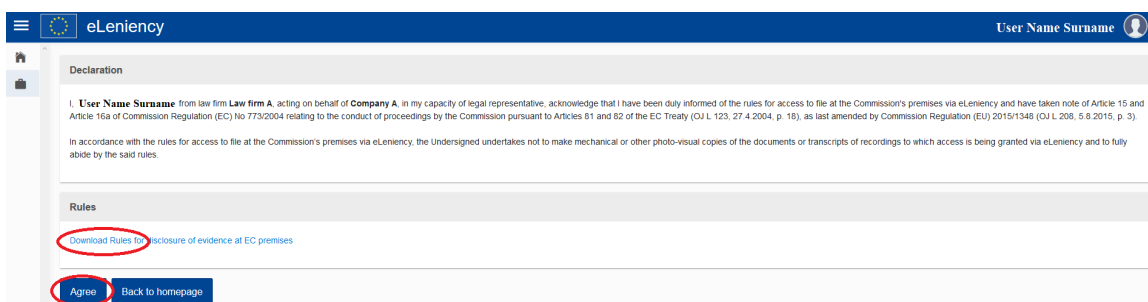


- At workspace level, you have access to the following:
 - Workspace details: Case number, Case name, Status, Purpose type, Purpose subtype (if applicable), Undertaking, Law firm, Access start/end days, Automated signing Minute/Acknowledgment of notification.
 - Tabs: Documents, User access (i.e. users that represent your undertaking and have access to the workspace), Extension requests (if applicable).
 - Actions: View PDF, Mark as Read, End Access, Request extension (if applicable).

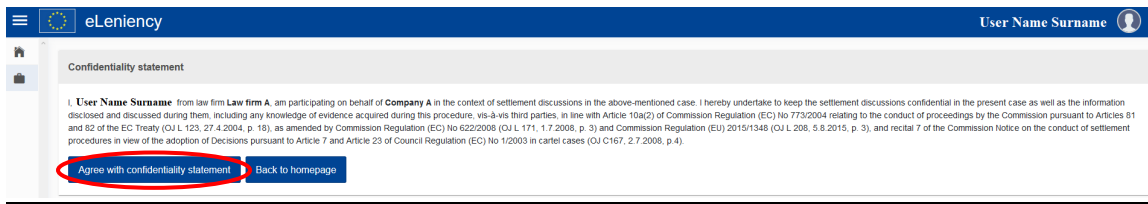
Note: The value of the “Automated signing Minute/Acknowledgment notification” field is at first set to “No” (i.e. the minute/acknowledgment of notification shall be signed by the party before “Access end day”). When the case team considers that the party had sufficient access to the relevant workspace, it will grant a final extension which sets the value of this field to “Yes” (i.e. if not signed in time by the party, the minute/acknowledgement of notification shall be signed automatically by the system once the final “Access end day” expires).

(4) Accept the rules

- Access to file: by signing on screen an Access to File Declaration for workspaces dedicated to documents accessible only at the Commission’s premises via eLeniency.



- Confidentiality: by signing on screen a Confidentiality Statement for accessing information in settlement cases.

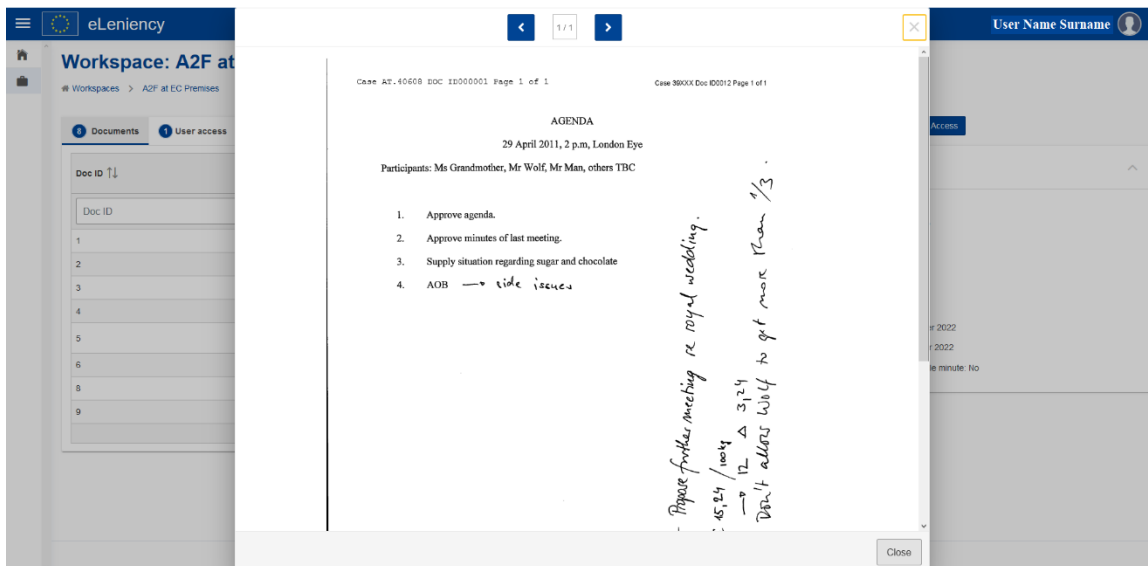


Note: If the user does not sign the Access to File Declaration and the Confidentiality Statement, the user cannot access the workspace.

(5) Read the documents in the relevant workspace

- Within the available access period, click the “View PDF” button to open, read and take note of the document(s) made available in the relevant workspace.

Note: Screenshots or other photo-visual copies of the documents are not permitted.



- *Optional functionality:* The “Mark as read” action can be used to mark a document as read, once the review of that document is finalised. This will indicate to the other users of your party that you already reviewed that document. The purpose of this functionality is to support users of the same party with workload distribution. The “Mark as read” action does not prevent you from:
 - viewing a document already marked as read by another user; or
 - ending the access to the relevant workspace (i.e. none/some/all documents can be marked as read when ending the access).

Note: The “Mark as read” action cannot be undone.

(6) Extension requests

- All users of a party receive an email reminder one day before the access to the relevant workspace expires.
- If the initial period is not sufficient to finalise the access, parties can request an extension via the “Request extension” button, by providing a justification and proposing a new “Access end day”.

Request access extension

Justification *

We need one extra day to finalise the access, because |... 1943

Proposed end day *

Access end day

Close Request access extension

- When the extension request is (partially) accepted or rejected by the case team, the “Access end day” is updated accordingly in the relevant workspace and you will also receive a corresponding email notification.

Note: A request for extension is partially accepted when the case team accepts the request, but proposes a new “Access end day”.

(7) End access to the relevant workspace

- Before the access period expires, click the “End Access” button and sign the minute/acknowledgment of notification when you consider having had sufficient access to the document(s) in the relevant workspace.
- After signature, you can preview or download the minute/acknowledgment of notification confirming the date(s) of access/notification.

Signing Access to file minute

I, **User Name Surname** from law firm **Law firm A**, acting on behalf of **Company A**, in my capacity of legal representative, declare that we had full access to the file which consisted of putting at the disposal of the undertaking we are representing, for examination, the documents identified as "EC premises" (i.e. accessible only at the Commission's premises via eLeniency) in the list of all documents contained in the Commission file in the present case until 11 September 2022.

By signing Access to file minute you confirm accessing all content required in context of this workspace. Confirming Access to file minute will revoke any further access to this workspace for you and for the other users belonging to the same party.

Close I acknowledge

Note: When access is ended by one user of a party, access to the workspace and its documents is revoked for all users of that party.