

**DECISION OF THE STEERING COMMITTEE OF THE RESEARCH EXECUTIVE  
AGENCY ON THE IMPLEMENTATION OF REGULATION (EC) N° 1049/2001 OF  
THE EUROPEAN PARLIAMENT AND THE COUNCIL REGARDING PUBLIC  
ACCESS TO DOCUMENTS**

THE STEERING COMMITTEE

Having regard to Council Regulation (EC) 58/2003 of 19 December 2002<sup>1</sup> and in particular Article 9(6) thereof and to Commission Decision 46/2008 of 14 December 2007<sup>2</sup> setting up the Research Executive Agency,

Whereas:

(1) Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>3</sup> lays down the general principles and limits governing the right of access to European Parliament, Council and Commission documents.

(2) In accordance with Article 9(6) of Council Regulation No 58/2003, Regulation 1049/2001 shall apply to documents held by the Research Executive Agency.

(3) In principle, the widest possible access to documents should be ensured, subject to the principles, conditions and limits defined in Regulation (EC) No 1049/2001.

HAS ADOPTED THIS DECISION:

*Article 1 – Purpose*

The scope of this Decision is to lay down the practical arrangements for implementing Regulation (EC) No 1049/2001, as regards the Research Executive Agency's documents.

*Article 2 – Beneficiaries*

1. Citizens of the European Union and natural or legal persons residing or having their registered office in a Member State shall exercise their right of access to the Research Executive Agency's documents pursuant to Article 2(1) of Regulation No 1049/2001.

---

<sup>1</sup> OJ L 11, 16.01.2003, p. 1

<sup>2</sup> OJ L 11, 15.01.2008, p. 9

<sup>3</sup> OJ L 60, 04.02.2008, p. 52

2. Pursuant to Article 2(2) of Regulation (EC) No 1049/2001, citizens of third countries not residing in a Member State and legal persons not having their registered office in one of the Member States shall enjoy the right of access to the Research Executive Agency's documents on the same terms as the beneficiaries referred to in Article 2(1) of Regulation (EC) No 1049/2001.

### *Article 3 – Definitions*

For the purpose of this Decision:

(a) 'document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the activities and decisions falling within the Research Executive Agency's sphere of responsibility;

(b) 'third party' shall mean any natural or legal person, or any entity outside the Research Executive Agency, including Community or non-Community institutions and bodies and third countries;

(c) 'working days' means days when the banks in the city of Brussels taking deposits from consumers are open for business.

### *Article 4 – Access applications*

1. Applications for access to a document shall be sent to the Research Executive Agency by electronic mail via the Research Executive Agency's website, by regular mail or by fax, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the Research Executive Agency to identify the document. The relevant contact details are listed in the Annex to this Decision and shall be regularly updated.

2. The Research Executive Agency shall respond to initial and confirmatory applications for access to a document within fifteen working days from the date of registration of the application, by regular mail, by electronic mail or by fax.

3. In the case of complex or bulky applications, the deadline may be extended by fifteen working days. Reasons must be given for any extension of the deadline and any such extension must be notified to the applicant prior to the expiry of the original deadline.

4. If an application is imprecise, as defined in Article 6(2) of Regulation 1049/2001, the Research Executive Agency shall invite the applicant to provide additional information to clarify the application. The deadline for the Research Executive Agency to respond to the application shall be fifteen working days from receiving such further information as requested and as necessary to identify the document in question.

5. Any decision to deny access to a document or part of a document shall state the reason for the refusal based on one of the exceptions listed in Article 4 of Regulation 1049/2001. The applicant shall be informed of the remedies available to him/her.

6. Pursuant to Article 17(1) of Regulation 1049/2001, a report shall be annexed to the Research Executive Agency's Annual Activity Report including the number of cases in which

the Research Executive Agency refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.

#### *Article 5 - Processing of initial applications*

1. Where the document requested is directly accessible as defined in Article 12 of Regulation 1049/2001 and in Article 11 of this Decision, the applicant shall be notified as such together with details of how to retrieve the document in question.
2. Applications relating to documents which are not directly accessible shall be acknowledged by the Research Executive Agency pending an answer unless this answer can be sent by return post.
3. The acknowledgement of receipt and the answer shall be sent to the applicant in writing, where appropriate, by electronic means.
4. The Research Executive Agency shall inform the applicant of its decision with respect to the initial application.
5. In the event of a total or partial refusal, the applicant shall be informed of his/her right to submit, within fifteen working days from receipt of the answer, a confirmatory application to the Director asking him/her to reconsider this refusal.
6. Failure of the Research Executive Agency to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application.

#### *Article 6 - Processing of confirmatory applications*

1. The Director of the Research Executive Agency shall take decisions regarding confirmatory applications.
2. The decision shall be notified to the applicant in writing, where appropriate, by electronic means, and shall inform him/her, if appropriate of his/her right to bring an action before the Court of First Instance or to lodge a complaint with the European Ombudsman.

However, pursuant to Article 195(1) of the Treaty establishing the European Community, citizens of third countries not residing in Member States and legal persons not having their registered office in one of the Member States shall not have the option of laying a complaint before the European Ombudsman. But, if the Research Executive Agency wholly or partly refuses them the access to a document after a confirmatory application, they may bring an action before the Court of First Instance of the European Communities in accordance with the fourth paragraph of Article 230 of the Treaty.

#### *Article 7 – Third party documents*

1. Where the Research Executive Agency receives an application for access to a document which it holds but which originates from a third party, the Research Executive Agency shall, in the first instance check whether one of the exceptions, especially commercial interests and

intellectual property of a natural or legal person, provided for under Article 4 of Regulation 1049/2001 applies.

2. If, after that examination, the Research Executive Agency considers that access to the document must be refused under one of the exceptions provided for by Article 4 of Regulation 1049/2001, it shall refuse such a request and a negative answer shall be sent to the applicant.

3. The Research Executive Agency shall, however, only grant the application without consulting the third-party where:

- a) the document requested has already been publicly disclosed either by the third party or under Regulation 1049/2001 or similar provisions;
- b) the Research Executive Agency has a contractual right to disclose the document.

4. In all other cases, the third party shall be consulted in writing.

5. The third party shall have a deadline for reply which shall be no shorter than five working days, but must enable the Research Executive Agency to abide by its own deadlines for reply.

In the absence of an answer within the prescribed period, or in those cases where the third party is untraceable or unidentifiable, the Research Executive Agency shall reach a decision in accordance with the criteria set out in Article 4 of Regulation 1049/2001, taking into account the legitimate interests of the third party on the basis of the information at its disposal.

6. If the Research Executive Agency intends to give access to a document against the explicit opinion of the third party, it shall inform him of its intention to disclose the document after a ten-working day period and shall draw his/her attention to the remedies available to him/her to oppose disclosure.

#### *Article 8 – Classification of documents*

1. The Research Executive Agency's documents shall be classified in accordance with the classification laid down in Commission Decision (EC, ECSC, Euratom) No 2001/844 of 29 November 2001 amending its internal Rules of Procedure<sup>4</sup>.

2. The classification of a document of the Research Executive Agency shall be decided by the Director. When the classification raises questions of principle the Director may consult the Chairperson of the Steering Committee.

3. Applications for access to classified documents of the Research Executive Agency shall be handled by the Director, where appropriate in consultation with, as relevant, the Chairperson of the Steering Committee as referred in paragraph 2.

4. If access to a classified document of the Research Executive Agency is to be given, it shall be first declassified by a decision of the Director.

---

<sup>4</sup> OJ L 317, 3.12.2001, p. 1.

### *Article 9- Exercise of the right of access*

1. Documents shall be sent by regular mail, fax or by electronic mail. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents at the Research Executive Agency's premises. This consultation shall be free of charge.
2. If the document has been published, the answer shall consist of the publication references or, for documents available on the Research Executive Agency's website or other websites, the appropriate Uniform Resource Locator (URL).
3. If the volume of the documents requested exceeds twenty pages, the applicant may be charged a fee of 0,10 EUR per page for copies plus carriage costs. The charges for other media shall be decided on a case by case basis but shall not exceed a reasonable amount.

### *Article 10 - Measures facilitating access to documents*

1. In order to make the right of access provided for in Regulation 1049/2001 effective, the Research Executive Agency shall provide access to a register of documents. The register shall be accessible in electronic form.
2. The register shall contain the title of the document (in the languages in which it is available), its serial number, the subject matter and/or a short description of the contents, an indication of the author, the date of its creation or adoption and the date of entry in the register.
3. For documents which are directly accessible, the register shall include a hyperlink to the document in question.
4. A help page shall be provided to assist the public in finding specific documents.
5. For documents which are not directly accessible, the register shall provide details of how to request access.

### *Article 11 - Documents directly accessible to the public*

1. The following documents shall be automatically provided on request and, as far as possible, made directly accessible by electronic means:
  - (a) all adopted EU legislation related to the Research Executive Agency's objectives;
  - (b) a publishable version of the Annual Management Plan and of the Annual Activity Report once approved by the Steering Committee;
  - (c) the Annual Budget Plan and amending budgets, as finally adopted;
  - (d) the decisions of the Steering Committee when adopted;
  - (e) all press releases or other publications made by the Research Executive Agency.

As far as possible, the following documents shall be made directly available by electronic means:

- (a) documents originating from third parties which have already been publicly disclosed by them or with their consent;
- (b) documents already disclosed following a previous application.

2. The Director may decide to expand the list of documents in paragraph 1 as appropriate only with the prior approval of the Steering Committee.

#### *Article 12-Internal Organisation*

The Director shall ensure coordination and uniform implementation of these rules by the Research Executive Agency staff. To this end, he/she shall provide all the necessary advice and guidelines.

#### *Article 13 - Right of Access to Personal Data*

This Decision shall be without prejudice to the right of individuals to have access to and to restrict the use and disclosure of personal data concerning them as stipulated in relevant Community legislation, such as Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000<sup>5</sup>.

#### *Article 14 - Reproduction of Documents*

This Decision shall be without prejudice to any existing rules and laws on copyright which may limit a third party's right to reproduce or exploit released documents.

#### *Article 15 - Amendment*

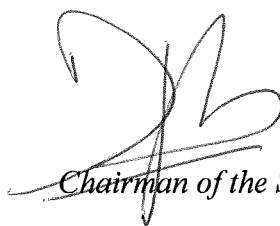
This Decision may be amended by a subsequent decision of the Steering Committee.

#### *Article 16- Entry into force*

1. This Decision shall enter into force as of 3 February 2009, date of adoption by the Steering Committee and shall be published on the website of the Research Executive Agency.

Done at Brussels,

For the Steering Committee,

  
Chairman of the Steering Committee  
20 2. 09

---

<sup>5</sup> OJ L 8, 12.01.2001, p. 1

## ANNEX

Addresses for submission of applications for access to documents held by the Research Executive Agency.

### **1. By post:**

Research Executive Agency

Access to Documents

1049 Brussels

Belgium

### **2. By electronic mail:**

REA-DOCUMENTS@ec.europa.eu.

### **3. Via the Research Executive Agency's website:**

<http://ec.europa.eu/research/rea> (Contacts)

### **4. By fax:**

+32 (0)2 29 79609