

**IMPLEMENTING RULES FOR THE APPLICATION OF REGULATION (EC)  
1049/2001 as adopted by the Management Board 22 June 2004**

The Management Board of the EEA

Whereas in accordance with Article 255(2) of the EC Treaty, the European Parliament and the Council adopted Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Having regard to amended Council Regulation (EEC) 1210/90 of 7 May 1990<sup>1</sup>, in particular its article 6 as amended by (EC) No1641/2003<sup>2</sup>, which lays down the application to European Environment Agency of Regulation (EC) No 1049/2001 and provides that the European Environment Agency Management Board shall adopt the practical arrangements for implementing Regulation (EC) No 1049/2001,

HAS ADOPTED the following rules

**Article 1**

**Beneficiaries**

Citizens of the Union and natural or legal persons residing or having their registered office in a Member State shall exercise their right of access to the European Environment Agency documents under Article 2(1) of Regulation (EC) No 1049/2001 in accordance with these detailed rules. This right of access concerns documents held by the Agency, that is to say, documents drawn up or received by it and in its possession.

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 Agency documents on the same terms as the beneficiaries referred to in Article 255(1) of the Treaty.

**Article 2**

**Access applications**

All applications for access to a document shall be sent by mail, fax or e-mail to the Agency. The addresses to which applications are to be sent shall be published on the web site of the Agency and referred to in the Agency's publications.

The Agency shall answer initial and confirmatory access applications within fifteen working days from the date of registration of the application. In the case of complex or bulky applications, the deadline may be extended by

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<sup>1</sup> OJ No L 120/1, 11.05.1990, OJ No L 117/1, 05.05.1999, OJ No L 245, 29.09.2003

<sup>2</sup> OJ No L 245, 29.09.2003

fifteen working days. Reasons must be given for any extension of the deadline and it must be notified to the applicant beforehand.

If an application is imprecise, as referred to in Article 6(2) of Regulation (EC) No 1049/2001, the Agency shall invite the applicant to provide additional information making it possible to identify the documents requested; the deadline for reply shall run only from the time when the Agency has this information.

Any decision which is even partly negative shall state the reason for the refusal based on one of the exceptions listed in Article 4 of Regulation (EC) No 1049/2001 and shall inform the applicant of the remedies available to him.

### **Article 3**

#### **Treatment of initial applications**

Without prejudice to Article 9 of these Rules, as soon as the application is registered, an acknowledgement of receipt shall be sent to the applicant, unless the answer can be sent by return post.

The acknowledgement of receipt and the answer shall be sent in writing, where appropriate, by electronic means.

The applicant shall be informed of the response to his application by a member of staff designated for this purpose.

Any answer which is even partly negative shall inform the applicant of his right to submit, within fifteen working days from receipt of the answer, a confirmatory application to the Executive Director.

### **Article 4**

#### **Treatment of confirmatory applications**

Decisions on confirmatory applications are taken by the Executive Director. They shall be notified to the applicant in writing, where appropriate by electronic means.

In case the initial refusal to grant access is confirmed, wholly or in part, the Executive Director will inform the applicant of his right to bring an action before the Court of First Instance or to lodge a complaint with the European Ombudsman.

### **Article 5**

#### **Consultations**

1. Where the Agency receives an application for access to a document which it holds but which originates from a third party, the Agency shall check whether one of the exceptions provided for by Article 4 of Regulation (EC) No 1049/2001 applies.
2. If, after that examination, the Agency considers that access to it must be refused under one of the exceptions provided for by Article 4 of Regulation

(EC) No 1049/2001, the negative answer shall be sent to the applicant without consultation of the third-party author.

3. The Agency shall grant the application without consulting the third-party author where the document requested has already been disclosed either by its author or under the Regulation or similar provisions.
4. Unless the document originates from a Member State, the Agency shall grant the application without consulting the third-party author where it is obvious that the disclosure, or partial disclosure, of its contents would not obviously affect one of the interests referred to in Article 4 of Regulation (EC) No 1049/2001.
5. In all the other cases, the third-party author shall be consulted. In particular, if the application for access concerns a document originating from a Member State, the Agency shall consult the originating authority.
6. The third-party author consulted shall have a deadline for reply which shall be no shorter than five working days but must enable the Agency to abide by its own deadlines for reply. In the absence of an answer within the prescribed period, or if the third party is untraceable or not identifiable, the Agency shall decide in accordance with the rules on exceptions in Article 4 of Regulation (EC) No 1049/2001, taking into account the legitimate interests of the third party on the basis of the information at its disposal.
7. If the Agency intends to give access to a document against the explicit opinion of the author, it shall inform the author of its intention to disclose the document after a ten-working day period and shall draw his attention to the remedies available to him to oppose disclosure.
8. Where a Member State receives an application for access to a document originating from the Agency, it may, for the purposes of consultation, contact the Executive Director, which replies to the application.

## **Article 6**

### **Treatment of applications for access to classified documents**

Where an application for access concerns a sensitive document as defined in Article 9(1) of Regulation (EC) No 1049/2001, it shall be handled by officials entitled to acquaint themselves with the document.

Reasons shall be given on the basis of the exceptions listed in Article 4 of Regulation (EC) No 1049/2001 for any decision refusing access to all or part of a classified document. If it proves that access to the requested document cannot be refused on the basis of these exceptions, the official handling the application shall ensure that the document is declassified before sending it to the applicant.

The agreement of the originating authority shall be required if access is to be given to a sensitive document.

## **Article 7**

### **Exercise of the right of access**

Documents shall be sent by mail, fax or, if available, by e-mail, depending on the application. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents on the spot. This consultation shall be free.

If the document has been published, the answer shall consist of the publication references and/or the place where the document is available and where appropriate of its web address on the EEA site.

If the volume of the documents requested exceeds twenty pages, the applicant may be charged a fee of EUR 0,10 per page plus carriage costs. The charges for other media shall be decided case by case but shall not exceed a reasonable amount.

### **Article 8**

#### **Measures facilitating access to the documents**

The coverage of the register provided for by Article 11 of Regulation (EC) No 1049/2001 shall be extended gradually. It shall be announced on the EEA homepage.

The register shall contain the title of the document (in the languages in which it is available), references, an indication of its author and the date of its creation or adoption.

A help page shall inform the public how the document can be obtained. If the document is published, there shall be a link to the full text.

### **Article 9**

#### **Documents directly accessible to the public**

1. This Article applies only to documents drawn up or received after the date from which Regulation (EC) No 1049/2001 applies.

2. The following documents shall be automatically provided on request and, as far as possible, made directly accessible by electronic means:

- (a) agendas for the Agency Management Board, Bureau, Scientific Committee and National Focal Points meetings;
- (b) ordinary minutes of the Agency above meetings, after approval;
- (c) documents adopted by the Agency for publication in the Official Journal of the European Communities;
- (d) documents already disclosed following a previous application.

### **Article 10**

#### **Internal organisation**

The Executive Director is in charge of defining the internal organisation of the European Environment Agency, which is necessary according to this decision.

### **Article 11**

Decision of 21 March 1997 on public access to European Environment Agency Documents is repealed.

## **Article 12**

This decision shall take effect on the date of its adoption by the Management Board.

Approved by the Management Board on 22 June 2004

Copenhagen, 22 June 2004

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Lars-Erik Liljelund  
Chairman EEA Management Board