
Decision n°: 2012/10

SUBJECT : Decision concerning the arrangements for the implementation of Regulation (EC) No 1049/2001 on public access to documents

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

HAVING REGARD to the Council Regulation (EC) No 168/2007 of 15 February 2007¹ establishing a European Union Agency for Fundamental Rights (hereafter referred to as the "FRA Regulation"), and in particular Article 17 thereof,

HAVING REGARD TO Regulation (EC) No 1049/2001² of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;

WHEREAS it is necessary to establish rules for implementing Regulation (EC) N°1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter referred to as "Regulation 1049/2001"),

HAS ADOPTED the following decision:

Article 1 - Scope and Beneficiaries

1. This decision prescribes the arrangements under which the public, within the meaning of Article 2 (1) and 2 (2) of Regulation 1049/2001, shall be granted access to documents held by the European Union Agency for Fundamental

¹ [OJ L53, 22.2.2007, p.1](#)

² [OJ L145, 31.5.2001, p.43](#)

Rights, (hereinafter referred to as "the Agency"), implementing Regulation 1049/2001.

2. Pursuant to Article 2(1) of Regulation 1049/2001, 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 institutions, subject to the principles, conditions and limits defined in the abovementioned Regulation.
3. Pursuant to Article 2(2) of Regulation 1049/2001, any natural or legal person not residing or not having its 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 2(1) of Regulation 1049/2001.

Article 2 - Applications for access to Agency documents

1. Applications for access to documents which are not directly accessible via the Agency's website shall be sent to the Agency by electronic mail, by post or by fax, in a sufficiently precise manner, in order to enable the Agency to identify the document(s) requested. The relevant contact details are listed in the Annex 1 of this Decision, which may be updated periodically.
2. If an application is not sufficiently precise, as defined in Article 6(2) of Regulation 1049/2001, the Agency shall invite the applicant to provide clarifications regarding the application, and shall assist the applicant in doing so, for example by providing information about the use of public registers of documents.
3. The Agency shall respond to any initial and confirmatory applications, as referred in article 3, paragraph 5 of this decision, within 15 working days from receiving the information necessary to identify the document in question.
4. In exceptional cases, for instance in the event of an application relating to a lengthy document or to an extensive number of documents or in the case of complex or bulky applications, the deadline may be extended by 15 working days. Reasons must be given for any extension of the deadline and any such extension must be notified to the applicant prior to expiry of the original deadline.
5. Any decision denying access to a document or part of a document shall state reasons justifying 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 or her.

6. Where the application seeks to obtain access to documents containing personal data, Regulation (EC) No. 45/2001³ shall be applicable in its entirety.

Article 3 - Processing of initial applications

1. Where a document requested is directly accessible according to Article 12 of Regulation 1049/2001 and Article 7 of this Decision, the applicant shall be notified and given details on how to retrieve the document in question.
2. In cases of applications relating to documents which are not directly accessible according to Article 12 of Regulation 1049/2001, the receipt of the application shall be acknowledged by the Agency pending a final answer.
3. The acknowledgement of receipt and the reply shall be communicated in writing and where appropriate by electronic means.
4. The Agency's Document Access Coordinator shall inform the applicant of his/her decision with respect to the initial application.
5. In the event of a total or partial refusal, the decision shall inform the applicant of his right to submit, within 15 working days from receipt of the reply, a confirmatory application to the Agency, as provided for in article 7(1) of Regulation 1049/2001.
6. Failure by the Agency to reply within the prescribed time limit to an application shall automatically entitle the applicant to make a confirmatory application.

Article 4 - Processing of confirmatory applications

1. The Director is authorised to take decisions regarding confirmatory applications. Within 15 working days from receipt of such an application, the Director shall either grant access to the document concerned and provide access in accordance with Article 2, or state the reasons for the total or partial refusal.
2. The decision shall be notified to the applicant in writing, where appropriate by electronic means, and shall inform him or her of their right to bring an action before the Court or, if appropriate, to lodge a complaint with the European Ombudsman.

³ OJ L 12, 1.2001, p.1

3. Failure by the Agency to reply within the prescribed time limit shall be considered a refusal and entitles the applicant to lodge a complaint with the European Ombudsman or institute Court proceedings against the Agency.

Article 5 - Third-party documents

1. Where the Agency receives an application for access to a document which it holds but which originates from a third party (hereinafter the third party), the Agency shall check whether one of the exceptions in Article 4 of Regulation 1049/2001 applies.
2. If, after that examination, the Agency considers that access to it must be refused under one of the exceptions in Article 4 of Regulation 1049/2001, the negative reply shall be sent to the applicant without consultation of the third-party.
3. The Agency shall grant the application without consulting with the third-party, where the document requested has already been disclosed either by its author or under Regulation 1049/2001 or similar provision.
4. The Agency shall grant the application without consulting with the third-party, where unless it is clear that the disclosure, or partial disclosure, of its contents would not affect one of the interests referred to in Article 4 of Regulation 1049/2001.
5. In all other cases, the third-party author shall be consulted. In particular, if an application for access concerns a document originating from a Member State, the Agency shall consult the originating authority.
6. The third party shall give its consultation within a period allowing the Agency to respect its deadline to reply to the applicant. In the absence of an answer within the prescribed period, or in those cases where the third party is untraceable or unidentifiable, the Agency shall take a decision in accordance with the criteria set in article 4, paragraphs 1 and 2 of Regulation 1049/2001 on the basis of the information at the Agency's disposal.
7. If the Agency intends to grant access to a document against the explicit opinion of the third party, it shall inform the third party of its intention to disclose the document after a period of 10 working days and shall draw their attention to the remedies available to them.

Article 6 - Exercise of the right of access

1. Documents shall be sent by mail, fax or, if available, by e-mail. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents at the Agency's premises, free of charge.
2. If the document has been published, the reply shall include the publication references or, for documents available on the Agency's website or any other website, 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 EUR 0,10 plus carriage costs for the necessary copies. This charge shall not exceed the real cost of producing and sending the copies.

Article 7 - Measures Facilitating Access to Documents

1. In order to make the right of access, as provided for in Regulation 1049/2001, effective the Agency shall as far as possible make documents directly accessible through organising and providing access to a register of documents. This 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 author (Agency or third party) 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. For documents which are not directly accessible, the register shall provide details on how to request access.
5. A help page shall be provided to assist the public in using the system described above.
6. The types of documents that shall be available via the register are listed in Annex 2 of this Decision.

Article 8 - Report

Pursuant to article 17(1) of Regulation 1049/2001, a report shall be annexed to the Agency's annual report including the number of cases in which the institution

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

Article 9 - Internal organisation

1. The Director shall ensure uniform implementation of the listed provisions and coordinated action by the Agency's staff. To this end, he or she shall provide all the necessary advice and guidelines.
2. The Agency shall adapt its current practices to the provisions of this decision at the latest 6 months after its signature.

Article 10 - Entry into force

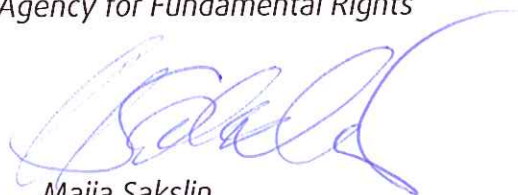
This Decision shall enter into force upon its adoption by the Management Board of the European Union Agency for Fundamental Rights.

Article 11- Repeal

This decision repeals Management Board Decision 2007/07 concerning the arrangements to be applied by the Agency for public access to documents.

Vienna, 14.12.2012

For the European Union Agency for Fundamental Rights



Majja Sakslin
Chairperson of the Management Board

ANNEX 1 – Contact details

This Annex provides the contact details for applications for access to documents
Addresses for submission of applications for access to documents held by the
European Union Agency for Fundamental Rights

Applications shall be sent for the attention of the Document Access Coordinator by
one of the methods below:

1. **By Post:** European Union Agency for Fundamental Rights
Document Access Coordinator
Schwarzenbergplatz 11
AT-1040 Vienna
AUSTRIA
2. **By electronic mail:**
3. **documents@fra.europa.eu**
4. **Via the Agency's website:** www.fra.europa.eu
5. **By Fax:** +43 1 58030 691

ANNEX 2 – Register of Documents

Bodies of the Agency documents

- Meeting agendas
- Rules of procedure
- Decisions

Agency's work

- Founding Regulation(s)
- Charter of Fundamental Rights of the European Union
- Multiannual Framework
- Annual Work Programmes
- Strategic planning documents
- Reports, comparative reports, surveys, studies
- Opinions
- Newsletters, brochures, media releases

Administrative documents

- Annual Activity reports
- Cooperation agreements
- Implementing Rules
- Budget and Financial documents
- Data Protection
- Decisions of the Budget discharge (either a doc or a link to the OJ)
- Public procurement (includes List of awarded contracts)
- Vacancies

Announcements

- Invitations/public events
- Announcements to public consultations