

COMMITTEE OF THE REGIONS

COMMITTEE OF THE REGIONS DECISION No 64/2003 of 11 February 2003 on public access to Committee of the Regions documents

THE COMMITTEE OF THE REGIONS BUREAU,

Having regard to Article 255(2) and (3) of the EC Treaty, and in particular Article 255(2) and (3) thereof,

Having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾,

Having regard to the Committee of the Regions Rules of Procedure, in particular Rule 35 thereof,

Whereas in the Joint Declaration on Regulation (EC) No 1049/2001, the European Parliament, the Council and the Commission request the other institutions to adopt internal rules regarding public access to documents, taking into account the principles and limits set out in this Regulation ⁽²⁾,

HEREBY DECIDES:

Article 1

Scope

Any citizens of the Union and any natural or legal person residing or having its registered office in a Member State shall have a right of access to Committee of the Regions documents, subject to the principles, conditions and limits set out in Regulation (EC) No 1049/2001 and the specific provisions laid down in this decision.

Article 2

Public register of Committee of the Regions documents

1. In accordance with Article 11 of Regulation (EC) No 1049/2001, a register of documents shall be established within the Committee of the Regions.

2. The register thus created shall contain references to documents drawn up or received by the institution as from the date from which Regulation (EC) No 1049/2001 is applicable.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 173, 27.6.2001, p. 5.

3. The full texts of documents shall be published on the Committee's Internet site, subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data ⁽³⁾, and Article 16 of Regulation (EC) No 1049/2001.

Article 3

Registration of documents

1. Any document drawn up by the Committee shall be entered in the register as soon as possible. The Secretary-General shall adopt the necessary internal implementing measures to ensure that all documents drawn up by the Committee are recorded.

2. Documents drawn up under the consultative procedure or for the purpose of other Committee business shall be entered in the register as soon as they have been tabled or made public, under the responsibility of the body or service which is the originator of the document.

3. Other documents which fall within the remit of the administrative services of the Secretariat-General of the Committee shall, as far as possible, be entered in the register as soon as authorised by the originating service.

4. Any document received by the Committee from a third party within the meaning of Article 3 of Regulation (EC) No 1049/2001 shall be forwarded by the official mail service to the register, which shall enter it, unless it is a sensitive document, within the meaning of Article 9 of the above Regulation, for which compliance with the time limits prescribed in that article is required.

Article 4

Documents directly accessible

1. All documents drawn up or received by the Committee under the consultative procedure must be accessible to citizens in electronic form, as far as possible, subject to the limits laid down in Articles 4 and 9 of Regulation (EC) No 1049/2001.

⁽³⁾ OJ L 8, 12.1.2001, p. 1.

2. In this connection, the Committee will make all consultative documents accessible through the register, to enable citizens to have direct access to the full texts of documents.

3. The Committee will make this register electronically accessible on its Internet site and will provide on-line assistance to citizens concerning arrangements for submitting applications for access to documents.

4. Other documents, in particular more political or strategic documents, shall be made directly accessible as far as possible.

Article 5

Documents accessible on request

1. Documents drawn up or received by the Committee outside the consultative procedure shall, as far as possible, be directly accessible to citizens through the register, subject to the limits laid down in Articles 4 and 9 of Regulation (EC) No 1049/2001.

2. Where entry of a document in the register does not permit direct access to the full text, either because the document is not available in electronic form or because the exceptions provided for in Articles 4 and 9 of Regulation (EC) No 1049/2001 are applicable, the applicant may apply for access to the document in writing, or using the electronic form available on the website. The Committee may either grant access to the document or give the reasons for its total or partial refusal in writing.

Article 6

Initial application

(a) Submission of the initial application

1. Applications for access to a document shall be sent in writing (by post, fax or electronic mail) to the Secretary-General of the Committee or to the open address given on the Committee's website, in one of the languages listed in Article 314 of the EC Treaty.
2. Applications shall be made in a sufficiently precise manner and in particular contain information enabling the document or documents requested to be identified and the name and address of the applicant.
3. If an application is not sufficiently precise, the Committee shall ask the applicant to clarify it and shall assist him or her in doing so; in this case, the deadline for reply shall apply from the date by which the Committee receives this information.
4. The applicant is not obliged to state the reasons for the application.

(b) Processing of the initial application

1. An application for access to a document held by the Committee shall be sent on the same day as it is registered by the official mail service to the service responsible for managing the register, which must

acknowledge receipt of the application, draft a reply and deliver the document within the prescribed time limit.

2. When the application relates to a document drawn up by the Committee to which one of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001 is applicable, the service responsible for the register shall contact the service or body that is the originator of the document, which shall suggest the course of action to be taken within five working days.

3. When the doubt as to disclosure concerns documents from third parties, the Committee shall consult the latter giving them five working days in which to make their position known with a view to assessing whether one of the exceptions laid down in Article 4 and 9 of Regulation (EC) No 1049/2001 is applicable.

4. When the application for access submitted to the Committee concerns a document which has not yet been made public by the originating institution, the Committee shall give the institution responsible for the document five working days in which to express any reservations regarding disclosure of the document.

5. If no reply is received within five working days, the Committee shall carry on with the procedure.

(c) Deadline for reply

1. Within a time limit of 15 working days from the registration of the application, the service responsible for the register shall grant access to the requested document and shall supply it within the same time limit.

2. Where the Committee is unable to grant access to the requested document, it shall notify the applicant in writing of the grounds for its total or partial refusal and inform the applicant of his or her right to make a confirmatory application.

3. In this case the applicant will have 15 working days from receiving the reply to make a confirmatory application.

4. In exceptional cases, where an application relates to a very long document or a large number of documents, the time limit provided for in paragraph 1 of this article may be extended by 15 working days, provided the applicant is notified in advance and that detailed reasons are given.

5. Failure by the Committee to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application.

6. The time limit of 15 working days laid down by Article 7 of Regulation (EC) No 1049/2001 shall start to run from the date of registration of the initial application.

(d) Competent authority

1. Initial applications shall be handled by the head of the Service responsible for supervision of the handling of applications for access to documents.
2. Favourable replies to initial applications shall be sent to the applicant by the director of the Service responsible for supervision of the handling of applications for access to documents.
3. Refusal of an initial application, with a statement of the reasons, shall be decided by the Secretary-General on a proposal from the service or body that is the originator of the document.
4. The Secretary-General may, at any time, refer an application to the Legal Service and/or the officer responsible for data protection.

Article 7

Confirmatory applications

(a) Submission of confirmatory applications

1. Confirmatory applications shall be sent to the Committee in writing within 15 working days, either from receipt of the total or partial refusal of access to the document requested, or in the absence of any reply to the initial application.
2. Confirmatory applications must be made in accordance with the same formal requirements as for the initial application.

(b) Processing and deadline for reply

1. Confirmatory applications shall be processed in accordance with the provisions laid down in Article 6(b) of this decision.
2. Within 15 working days of registration of the application, the Committee shall either grant access to the document or notify the applicant in writing of the reasons for its total or partial refusal.
3. In exceptional cases, where an application relates to a very long document or a large number of documents, the time limit provided for in the previous paragraph may be extended by 15 working days, provided the applicant is notified in advance and that detailed reasons are given.

(c) Competent authority

1. The reply to any confirmatory application shall be a matter for the President of the Committee.
2. The President will refer the matter to the Legal Service and/or the officer responsible for data protection, who shall give an opinion within three working days.

Article 8

Remedies to the confirmatory application

1. Where the Committee totally or partially refuses to grant access to a document, it shall inform the applicant of the remedies open to him or her, namely: instituting court proceedings against the institution and/or making a complaint to the Ombudsman under the conditions laid down in Articles 230 and 195 of the EC Treaty.
2. Failure to reply within the prescribed time limit is to be regarded as a negative response and will entitle the applicant to bring an action or complaint under the conditions set out in the previous paragraph.

Article 9

Issue of documents and cost of the reply

(a) Issue

1. Documents are to be supplied in the form of a copy, or in electronic format, with full regard to the applicant's preference.
2. If a document has already been released by the Committee or by another institution and is easily accessible, the Committee may facilitate access to the document by informing the applicant how to obtain the requested document.

(b) Cost of the reply

1. The cost of producing and sending copies may be charged to the applicant. This charge may not exceed the real cost of the operation.
2. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge.

(c) Applications for very large documents

1. The issuing of documents exceeding 20 A4 pages shall be subject to a fee of EUR 10, plus EUR 0,03 per page.
2. The amount of this fee may be revised by a decision of the Secretary-General.
3. Expenses relating to other means of transmission shall be decided by the Secretary-General but may not exceed the real cost of the operation.
4. In the event of repeated or successive applications concerning very long documents or a large number of documents, the Committee may confer with the applicant informally with a view to finding a solution.
5. Published documents are not covered by this decision and shall continue to be subject to their own pricing system.

(d) Additional translation costs

Where translation into a language other than those available is requested by the applicant, the existing freelance rates applied by the Committee to external translations shall apply.

Article 10

Final provision

This Decision repeals the Committee of the Regions Bureau Decision No 165/1997 of 17 September 1997 on public access to Committee of the Regions documents.

Article 11

Entry into force

This decision shall enter into force on the date of its publication in the *Official Journal of the European Union*. The decision on establishing the register of documents shall take effect from 1 June 2003.

The decision shall be enforced by the Secretary-General.

Done at Brussels, 11 February 2003.

For the Bureau of the Committee of the Regions

The President

Albert BORE
