

# TRANSLATION CENTRE FOR THE BODIES OF THE EUROPEAN UNION

## DECISION OF THE TRANSLATION CENTRE FOR THE BODIES OF THE EUROPEAN UNION

of 13 April 2004

on the implementation of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to documents

(2004/605/EC)

THE MANAGEMENT BOARD,

HAS ADOPTED THIS DECISION:

### Article 1

#### Beneficiaries and scope

Having regard to Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union <sup>(1)</sup>, as last amended by Council Regulation (EC) No 1645/2003 <sup>(2)</sup> of 18 June 2003, in particular Article 18a thereof,

1. Any natural or legal person shall have a right of access to documents of the Translation Centre for the bodies of the European Union (the Centre) subject to the principles, conditions and limits laid down in Regulation (EC) No 1049/2001 and in accordance with the provisions of this decision.

Whereas:

2. Documents in the Centre's possession for translation purposes only are not held by the Centre within the meaning of Article 2(3) of Regulation (EC) No 1049/2001.

### Article 2

#### Definitions

(1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

For the purpose of this decision:

(2) Openness guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system and contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty and in the Charter of Fundamental Rights of the European Union.

(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 policies, activities and decisions falling within the Centre's sphere of responsibility;

(b) 'third party' shall mean any natural or legal person, or any entity outside the Centre, including the Member States, other Community or non-Community institutions and bodies and third countries.

### Article 3

#### Applications

(3) Article 18a of Regulation (EC) No 2965/94 provides that Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents <sup>(3)</sup> (hereinafter Regulation (EC) No 1049/2001) shall also apply to documents held by the Centre and it also provides that the Management Board shall adopt the practical arrangements for implementing Regulation (EC) No 1049/2001,

1. All applications for access to a document shall be sent to the Centre via its website ([www.cdt.eu.int](http://www.cdt.eu.int)), by e-mail ([cdt@cdt.eu.int](mailto:cdt@cdt.eu.int)), by mail (Translation Centre for the Bodies of the European Union, Bâtiment Nouvel Hémicycle, 1 rue du Fort Thüngen, L-1499 Luxembourg), or by fax ((352) 421711 220). The Centre shall reply to initial and confirmatory access applications within 15 working days from the date of registration of the application. 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 be notified to the applicant in advance.

<sup>(1)</sup> OJ L 314, 7.12.1994, p. 1

<sup>(2)</sup> OJ L 245, 29.9.2003, p. 13.

<sup>(3)</sup> OJ L 145, 31.5.2001, p. 43.

2. If an application is not sufficiently precise, as referred to in Article 6(2) of Regulation (EC) No 1049/2001, the Centre shall ask the applicant to provide further information to help identify the documents requested; the deadline for reply shall run only from the date on which the Centre is in receipt of such information.

3. 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 open to it.

#### Article 4

##### Processing of initial applications

1. Once the application has been registered, an acknowledgement of receipt shall be sent to the applicant, unless a reply is sent immediately. The acknowledgement of receipt and the reply shall be sent in writing, where appropriate in electronic form.

2. Subject to the provisions of Article 9 of this decision, the Administration Department shall have the power to decide on the action to be taken with regard to initial applications. To that end, a member of staff shall be assigned to process applications for access and to coordinate replies.

The applicant shall be informed of the outcome of its application.

Any reply which is even partly negative shall inform the applicant of its right to submit, within 15 working days from receipt of the reply, a confirmatory application to the Centre.

3. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the Centre's reply, make a confirmatory application asking the Centre to reconsider its position.

4. Failure by the Centre to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

#### Article 5

##### Processing of confirmatory applications

1. The Director of the Centre shall decide on confirmatory applications. He shall inform the Centre's Management Board of his decision.

2. The decision shall be notified to the applicant in writing, where appropriate in electronic form, informing the applicant of its right to bring an action before the Court of First Instance or to lodge a complaint with the European Ombudsman.

#### Article 6

##### Consultation

1. Where the Centre receives an application for access to a document which it holds but which originates from a third party, the Centre shall examine whether one of the exceptions provided for under Article 4 of Regulation (EC) No 1049/2001 applies.

2. If, after examination, the Centre considers that access to the document requested must be refused by reason of one of the exceptions provided for in 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. Subject to the provisions of paragraph 4 of this Article, the Centre shall grant the application without consulting the third-party author where:

- (a) the document requested has already been disclosed either by its author or pursuant to Regulation (EC) No 1049/2001 or similar provisions;
- (b) the disclosure, or partial disclosure, of its contents would not obviously undermine one of the interests referred to in Article 4 of Regulation (EC) No 1049/2001.

In all other cases, the third-party author shall be consulted.

4. If an application for access concerns a document originating from a Member State, the Centre shall consult the originator subject to the provisions of paragraph 3(a) of this Article.

5. The third party consulted shall have not less than five working days in which to reply, or enough time to allow the Centre to meet its own time limits for replying. If no reply is received within the prescribed period, or if the third party cannot be found or identified, the Centre shall decide in accordance with the rules on exceptions stated in Article 4 of Regulation (EC) No 1049/2001, taking account of the legitimate interests of the third party on the basis of the information at its disposal.

6. If the Centre 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 period of 10 working days and shall draw the author's attention to the remedies open to it to oppose such disclosure.

*Article 7***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 unwieldy, the applicant may be asked to consult the documents on the spot. This consultation shall be free of charge.

2. If the document has been published, the reply shall consist of references to the publication and/or the place where the document is available and, where appropriate, the address of the document on the website [www.cdt.eu.int](http://www.cdt.eu.int).

3. If the volume of the documents requested exceeds 20 pages, the applicant may be charged a fee of EUR 0,10 per page, plus delivery charge. The amount of this fee may be amended by the Centre's Director. The charges for other media shall be decided individually, but shall not exceed a reasonable amount.

*Article 8***Measures facilitating access to documents**

1. To make citizens' rights under Regulation (EC) No 1049/2001 effective, the Centre shall provide public access to a register of documents. Access to the register shall be provided in electronic form.

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

3. A help page (in all official languages) shall inform the public how the document can be obtained. If the document is published, there shall be a link to the original text.

*Article 9***Documents directly accessible to the public**

1. This article applies only to documents drawn up or received after the date of implementation of Regulation (EC) No 1049/2001.

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

- (a) texts adopted by the Centre's Director or Management Board intended for publication in the *Official Journal of the European Union* or on the Centre's website;
- (b) documents originating from third parties which have already been disclosed by their author or with its consent;
- (c) documents already disclosed following a previous application.

*Article 10***Reports**

The Centre shall publish annually a report for the preceding year including information on implementation of this decision, in particular statistics on the number of applications for access to the Centre's documents, the number of cases in which the Centre refused to grant access and the reasons for such refusals, in accordance with Article 17(1) of Regulation (EC) No 1049/2001.

*Article 11***Entry into force**

This decision shall enter into force on 1 April 2004.

*Article 12***Publication**

This decision shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 13 April 2004.

*For the Management Board*

*The Chairman*

K.-J. LÖNNROTH

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