

II

(Acts whose publication is not obligatory)

ECONOMIC AND SOCIAL COMMITTEE

DECISION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE of 1 July 2003 on public access to European Economic and Social Committee documents

(2003/603/EC)

THE SECRETARY-GENERAL,

Having regard to Article 255(2) and (3) of the Treaty establishing the European Community (TEC),

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 European Economic and Social Committee (EESC) Rules of Procedure, in particular Rule 64 (1 and 2) thereof,

Having regard to the measures adopted by the European Parliament, the Council, the Commission and the Committee of the Regions on public access to official documents,

Whereas in the Joint Declaration on European Parliament and Council Regulation (EC) No 1049/2001 of 30 May 2001⁽²⁾ 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;

Having regard to the content of the EESC Bureau Decision of 27 May 1997 on public access to EESC documents⁽³⁾,

HEREBY DECIDES:

TITLE I

PUBLIC REGISTER OF EESC DOCUMENTS

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 European Economic and Social Committee 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

Establishment

1. A public register of European Economic and Social Committee documents shall be established in accordance with Article 11 of European Parliament and Council Regulation (EC) No 1049/2001 of 30 May 2001.

2. The register thus created shall contain opinions adopted by the EESC and draft opinions adopted by the sections, as well as the documents listed in the Annex. It may also contain other decisions or documents produced by the Committee or references to documents drawn up or received by the institution as from 3 December 2001, the date from which Regulation (EC) No 1049/2001 is applicable.

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, and Article 16 of Regulation (EC) No 1049/2001.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 173, 27.6.2001, p. 5.

⁽³⁾ OJ L 339, 10.12.1997, p. 18.

*Article 3***Registration of documents**

1. The documents listed in Article 2(2) shall be entered in the register as soon as possible. The General Affairs Directorate shall adopt the necessary internal implementing measures to ensure that this is done.
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 submitted or made public, under the responsibility of the body or directorate responsible for the document.
3. Any document received by the Committee from a third party within the meaning of Article 3 of Regulation (EC) No 1049/2001 may be entered in the register 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 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.

TITLE II

INITIAL APPLICATION*Article 6***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.

2. In this connection, the Committee will make all its opinions accessible through the register, to enable citizens to have direct access to the full text 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 by the EESC outside the consultative procedure, as well as other documents of interest received by the Committee 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 request 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 7***Processing of the initial application**

1. An application for access to a document held by the Committee shall be processed on the same day as it is registered by the official mail/records service, 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 mail/records service 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. If no reply is received within five working days, the Committee shall carry on with the procedure.

*Article 8***Deadline for reply**

1. Within a time limit of 15 working days from the registration of the application, the mail/records service 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.

*Article 9***Competent authorities**

1. Initial applications shall be handled by the mail/records service.
2. Favourable replies to initial applications shall be sent to the applicant by the director of the abovementioned service, who may delegate this responsibility.
3. Refusal of an initial application, with a statement of the reasons, shall be decided by the abovementioned director on a proposal from the mail/records service or from the body that is the originator of the document.
4. The director may, at any time, refer an application to the Legal Service and/or the officer responsible for data protection.

TITLE III

CONFIRMATORY APPLICATIONS AND REMEDIES

*Article 10***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.

*Article 12***Competent authority**

1. The reply to any confirmatory application shall be a matter for the Secretary-General of the Committee, who may delegate this responsibility.
2. The Secretary-General may 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 11***Processing and deadline for reply**

1. Confirmatory applications shall be processed in accordance with the provisions laid down in Article 7 of this Decision.
2. Within 15 working days of registration of the confirmatory 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.

*Article 13***Remedies to the confirmatory application**

1. Where the EESC 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.

TITLE IV

ISSUE OF DOCUMENTS AND COST OF THE REPLY

*Article 14***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.

*Article 15***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.

*Article 16***Additional translation costs**

Documents shall be provided in the available languages. The applicant may however ask for the document to be translated into another official language of the EU. In this case, the existing freelance rates applied by the Committee to external translations shall apply.

*Article 17***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 authority as laid down in Article 9(2).

3. Expenses relating to other means of transmission shall be decided by the competent authority as laid down in Article 9(2), 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.

*Article 18***Final provision**

This Decision repeals the EESC Bureau Decision of 27 May 1997 on public access to Committee documents.

*Article 19***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 August 2003.

The Decision shall be enforced by the Director for General Affairs.

Done at Brussels, 1 July 2003.

Secretary-General
Patrick VENTURINI

ANNEX

List of EESC documents to be made accessible to the public through the register

Committee opinions
Section opinions
Brochures
Bulletins
Press releases
Record of proceedings of opinions adopted at plenary session
Information memos on own-initiative opinions
Information memos on new referrals
Information memos on information reports
Information memos for plenary sessions
Minutes of section meetings and plenary sessions
Activity reports
Information reports
Resolutions
