



PUBLIC ACCESS GUIDE

This guide aims at explaining how to get access to EEA's internal documents. It is divided in two parts: the first tells you what to do to get access to information which has already been published and the second how to get access to unpublished documents.

1. INTRODUCTION

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. Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. The purpose of Regulation (EC) No 1049/2001 is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article 15(3) of the Treaty on the Functioning of the European Union.

The principles of Regulation (EC) No 1049/2001 on public access are:

- o General right of access to documents without justification;
- o Principle of harm: refusal to disclose a document must be based on an analysis of the harm that would be caused by disclosure to one of the public or private interests expressly mentioned in the regulation;
- o Right of administrative appeal: all decisions may be the subject of an administrative appeal;
- o Balancing interests: the regulation states that the protection of certain interests must be balanced with the public interest in disclosure.

On 22 June 2004, the EEA Management Board has adopted implementing rules¹ for the application of Regulation (EC) No 1049/2001 as well as a decision² whereby the Code of Good Administrative Behaviour adopted by the resolution of the European Parliament on 6 September 2001 would apply by analogy to the European Environment Agency.

2. ACCESS TO PUBLISHED DOCUMENTS

How do I obtain a document published by the EEA?

The EEA external website includes a large number of free publications in PDF or HTML format which may be downloaded and printed directly. If you would like to obtain a copy of one of the EEA's free publications, you can send a request in writing at the following e-mail address: access.to.documents@eea.europa.eu or at the following postal address:

European Environment Agency
Operational services – Document management
Kongens Nytorv 6
1050 Copenhagen K
Denmark

¹ Decision available at <http://www.eea.europa.eu/about-us/documents/index.html>

² Decision available at <http://www.eea.europa.eu/about-us/documents/administrativedocuments/mbdecisionCodeofgoodbehavior.html>

3. ACCESS TO UNPUBLISHED DOCUMENTS

3.1. Who can request a document?

Anyone may request a document regardless of his or her personal or professional status and without having to give reasons for the request (see Article 2.1 of Regulation (EC) No 1049/2001 and Article 1 of the EEA's implementing rules).

3.2. What types of document can be asked for?

According to Article 2(3) of Regulation (EC) No 1049/2001 no category of document is a priori excluded from the right of access. So this means that any internal EEA documents can be requested. An internal document is a document which either has not been finalised or is not intended for publication, for examples:

- o Preparatory documents on EEA decisions;
- o Explanatory documents or other kinds of information such as statistics, memoranda or studies, minutes of meetings, which form the background to EEA decisions;
- o Information relating to the evaluation and awarding of grants and tenders; etc...

The general principle of the widest possible access to documents produced by EEA is subject to certain exceptions which are required to protect various interests. Access to a document will not be granted where its release would be likely to harm the right to privacy of individuals and third parties supplying the information to EEA. Each public access request will be considered on an individual basis.

3.3. How should a request for access be presented?

The request must be made in writing. It may be sent by mail, fax or email. You should make your request as detailed as possible, providing as much information as you can to help us identify the document(s) you want.

If your request is not sufficiently precise the EEA will ask you to provide more information. If the request relates to a very long document or to a very large number of documents, the EEA may approach you informally with a view of finding a fair solution.

3.4. What language should the request be in?

The request can be made in any of the languages of the EEA member countries. However, for an easier and quicker handling, the request should preferably be submitted in English which is the working language at EEA. Documents will be supplied in the format and the language version in which they are available. Documents will be supplied in other languages only when the language version is already available or can reasonably be supplied.

3.5. Where the request should be sent?

All requests for access to documents shall be made in writing at the following email address: access.to.documents@eea.europa.eu.

Alternatively, you may send your request by mail to the following address:

European Environment Agency
Operational services – Document management
Kongens Nytorv 6
1050 Copenhagen K
Denmark

3.6. How the requests are dealt with?

Requests to access to documents shall be processed promptly. Receipt of your application will be acknowledged. Within 15 working days from registration of your request, EEA will either send you

the document you asked for or will reply stating the reasons for its total or partial refusal. In that case, you will be informed of your right to ask for your original request to be reconsidered.

If your request creates particular difficulties (e.g. because of the volume of documents asked for), the time limit could be extended by another 15 working days. In that case, you will be notified in advance and the reasons for the extension of the time limit will be explained (Article 7 of Regulation (EC) No 1049/2001 and Article 2 of EEA's implementing rules).

3.7. How will I receive the document(s)?

The document(s) will be made available either as a paper copy or in electronic format. In exceptional cases you may also be offered an appointment to come and view the document(s) at the EEA.

3.8. How much does it cost to obtain a document?

If the document is no longer than 20 pages (A4 sheets) it will be provided free of charge. There is also no charge for consulting documents on the spot and in the case of direct access in electronic form.

You may be charged for voluminous document(s), but you will never have to pay more than the actual cost of producing and sending the copies (Article 10 of Regulation (EC) No 1049/2001 and Article 7 of EEA's implementing rules). In that case, a fee of EUR 0, 10 per page plus carriage costs will be charged.

3.9. Can I be refused access to a document and, if so, on what grounds?

EEA favours as wide an access as possible to its internal documents. However, there are inevitably some documents which may have to be withheld in order to protect specific public or private interests or to ensure that EEA's work is not disrupted. Refusal to grant access must be based on one of the exceptions described below and must be justified on the grounds that disclosure of the document would be harmful (Article 4 of Regulation (EC) No 1049/2001).

Exceptions to the right of access are clearly set out in Regulation (EC) No 1049/2001:

- ▶ Refusal is justified where disclosure could undermine the protection of:
 - The public interest (in particular public security, defence and military matters, international relations, or the financial, monetary or economic policy of the European Union or a Member State);
 - Privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data;
- ▶ Unless there is an overriding public interest in disclosure, refusal is justified where such disclosure could undermine the protection of:
 - The commercial interests of a specific natural or legal person, including intellectual property;
 - Court proceedings and legal advice;
 - The purpose of inspections, investigations and audits;
- ▶ Unless there is an overriding public interest in disclosure, refusal is justified where such disclosure could seriously undermine the EEA decision-making process in respect of any document:
 - Drawn up by EEA for internal use or received by it, which relates to a matter where the decision has not yet been taken;
 - Containing opinions for internal use as part of deliberation and preliminary consultations within EEA, even after the decision has been taken.

If only parts of the document are covered by any of these exceptions, the remaining parts of the document can be released.

If the document requested originated from a third party, EEA may consult that person or body before deciding whether to release the document.

3.10. In practice, what kind of document may be withheld?

Bearing in mind that no exemption is applied automatically and that each individual request will be looked at carefully, access might still be refused if a document:

- Relates to personnel records of EEA staff (e.g. recruitment, promotion or medical files);
- Contains commercially sensitive information about a company or an individual supplied to EEA in confidence (e.g. financial information provided in the framework of a call for tenders);
- Relates to decision-making processes (e.g. minutes of internal meetings) where release of a document may be subject to a period of veto in order to allow EEA time to consider;
- Is an audit report on the use of European Union funds paid to companies for implementing a project about which litigation is pending, or an internal audit report of the EEA;
- Expresses the personal opinions of EEA staff or advice from an EEA Programme or Group.

3.11. Will EEA give access to a document produced by others?

Yes. Documents from third parties, received and kept by EEA are also accessible. 'Third party' means any natural or legal person, or any entity outside EEA including the Member States, other European Union or non-European Union institutions and bodies and third countries (see Article 3(b) of Regulation (EC) No 1049/2001).

3.12. What can I do if my request for access to document is turned down or if EEA has not replied within the time allowed?

In both cases you can ask EEA to reconsider its decision, by sending a written request (confirmatory application) to the Executive Director of EEA within 15 working days following receipt of EEA's reply or expiry of the time limit if EEA has failed to reply. Then, EEA has 15 working days to change or confirm its initial decision. If the refusal is confirmed you will be given details on how to pursue the appeal further – that is, by lodging a complaint with the European Ombudsman or bringing an appeal before the General Court (See Articles 7 and 8 of Regulation (EC) No 1049/2001 and Article 4 of EEA's implementing rules).

3.13. Can I sell the documents that I have obtained from EEA?

No. You are not entitled to reproduce or publish them, for commercial purposes, without EEA's prior authorisation.