

Management Board Decision

DECISION N° 17-2019

of 13 December 2019

**ON THE ARRANGEMENTS TO BE APPLIED BY THE AGENCY FOR PUBLIC ACCESS TO DOCUMENTS
AND REPEALING DECISION N° 01-2004 OF THE MANAGEMENT BOARD CONCERNING THE ARRANGEMENTS
TO BE APPLIED BY THE AGENCY FOR PUBLIC ACCESS TO DOCUMENTS**

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AVIATION SAFETY AGENCY,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 11 September 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency¹, and in particular Article 119(1) 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 documents², and in particular Article 18 thereof,

WHEREAS:

- (1) Regulation (EC) No 1049/2001 requires each institution to adopt application measures on access to document.
- (2) Regulation (EC) No 1049/2001 is applicable to EASA, which has adopted in 2004 Decision 01-2004 of the Management Board concerning the arrangements to be applied by the Agency for public access to documents.

¹ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 11 September 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, OJ L 212, 22.8.2018, p. 1–122

² 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, OJ L 145, 31.5.2001, p.43-48.



- (3) The application of Regulation (EC) No 1049/2001 shall be without prejudice to the rules on access to data and information set out in Regulation (EU) No 376/2014³ and in the implementing acts adopted on the basis of Articles 72(5) and 74(8) of Regulation (EU) 2018/1139.

Has decided:

Article 1
Applicability and scope

1. The right of access concerns documents held by the European Union Aviation Safety Agency ('EASA'), that is to say, documents drawn up or received by it and in its possession.
2. Citizens of the European Union and natural or legal persons residing or having their registered office in a Member State shall exercise their right of access to EASA's documents pursuant to Article 2(1) of Regulation (EC) No 1049/2001.
3. Pursuant to Article 2(2) of Regulation (EC) No 1049/2001, any natural or legal person not residing or not having their registered office in one of the Member States may enjoy the right of access to EASA's documents on the same terms as the beneficiaries referred to in Article 2(1) of Regulation (EC) No 1049/2001.

Article 2
Document Access Coordinator

1. The Executive Director shall designate a Document Access Coordinator for processing initial applications and for preparing decisions with respect to confirmatory applications.
2. All EASA staff members shall cooperate with and support the Document Access Coordinator in its function.

Article 3
Requests for information

In case of doubt regarding the legal nature of the request, EASA staff members shall request the Document Access Coordinator to determine whether the request falls within the scope of Regulation (EC) No 1049/2001 or shall be treated as a request for information.

³ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007, OJ L 122, 24.4.2014, p.18-43.

Article 4

Applications for access to documents

1. Applications for access to EASA's documents which are not publicly available shall be made in written form, including electronic form, and in a sufficiently precise manner to enable EASA to identify the documents. They shall be preferably sent electronically.
2. EASA shall answer initial and confirmatory access applications within 15 working days from the date of registration of the application.
3. In exceptional cases, the deadline may be extended by 15 working days. Reasons must be given for any extension of the deadline and it must be notified to the applicant beforehand.
4. If an application is imprecise, as referred to in Article 6(2) of Regulation (EC) No 1049/2001, EASA shall ask the applicant to provide additional information making it possible to identify the documents requested. The deadline for reply shall run only from the time when EASA has this information.
5. Any decision which is partly negative shall state the reason for the refusal based on one or several of the exceptions listed in Article 4 of Regulation (EC) No 1049/2001.

Article 5

Treatment of initial applications

1. Initial applications shall be sent to the Document Access Coordinator. EASA staff members who receive an initial application shall redirect it to the Document Access Coordinator without delay.
2. As soon as the application is registered by the Document Access Coordinator, an acknowledgement of receipt shall be sent to the applicant. The acknowledgement of receipt and the answer shall be sent in writing by the Document Access Coordinator, where appropriate, by electronic means.
3. The Document Access Coordinator shall be responsible for the processing of and decisions on initial applications.
4. The applicant shall be provided with a written reply to his or her application by the Document Access Coordinator.
5. In the event of a total or partial refusal, the applicant shall be informed that he or she may within 15 working days of receiving EASA's reply, make a confirmatory application asking EASA to reconsider its position.
6. Failure by EASA to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application.



Article 6
Treatment of confirmatory applications

1. Confirmatory applications shall be sent to the Document Access Coordinator. EASA staff members who receive a confirmatory application shall redirect it to the Document Access Coordinator without delay.
2. As soon as the application is registered by the Document Access Coordinator, an acknowledgement of receipt shall be sent to the applicant. The acknowledgement of receipt and the answer shall be sent in writing by the Document Access Coordinator, where appropriate, by electronic means.
3. The Executive Director shall take the decisions on confirmatory applications. He or she shall be assisted in this task by the Document Access Coordinator and, if necessary, the EASA's department which produced or received the document in question.
4. The applicant shall be informed in writing of the response to his or her application by the Document Access Coordinator.
5. In the event of a total or partial refusal, the applicant shall be informed of his or her right to bring an action before the Court of Justice of the EU or to lodge a complaint with the European Ombudsman.

Article 7
Consultations

1. Where EASA receives an application for access to a document which it holds but which originates from a third party, EASA shall check whether one of the exceptions provided for under Article 4 of Regulation (EC) No 1049/2001 applies.
2. If, after that examination, EASA considers that it is clear that access to it must be refused under one of the exceptions provided for by 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. EASA shall grant the application without consulting the third-party author where:
 - (a) the document requested has already been disclosed either by its author or under Regulation (EC) No 1049/2001 or similar provisions;
 - (b) it is clear that the disclosure, or partial disclosure, of its content will not affect one of the interests referred to in Article 4 of Regulation (EC) No 1049/2001.
4. 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 for which EASA has requested EASA not to disclose the document without its prior agreement.



5. The third party consulted shall be given a deadline for reply which shall allow EASA to comply with its own 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, EASA shall reach a decision in accordance with the criteria set out in Article 4 of Regulation (EC) No 1049/2001, taking into account the legitimate interests of the third party on the basis of the information at his or her disposal.
6. If EASA intends to give access to a document against the explicit opinion of the author, he or she shall inform the author of his or her intention to disclose the document and shall draw his attention to the remedies available to him to oppose disclosure.

Article 8
Exercise of the right of access

1. Documents shall be sent preferably by email. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents on the spot. This consultation shall be free of charge.
2. If the document has been published, the answer shall consist of the publication references and/or the place where the document is available and where appropriate, of its web address on EASA's website.
3. Consultation on EASA premises, copies of less than 20 pages or direct access in electronic form shall be free of charge. As regards documents of more than 20 pages, the charge shall not exceed the real cost of producing and sending the copies.

Article 9
Measures facilitating access to documents

1. In order to make the right of access provided for in Regulation (EC) No 1049/2001 effective, EASA shall provide public access to a register of documents. The register shall be accessible in electronic form.
2. In line with the principle of transparency, EASA shall, where relevant and in accordance with Regulation (EU) 2018/1139 publish information on its work on the register.
3. The register shall contain the title of the document (in the languages in which it is available), its reference number, the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in manner which does not undermine protection of the interests in Article 4 of Regulation (EU) 1049/2001.



Article 10
Report

EASA shall publish annually as part of its Consolidated Annual Activity Report the number of cases in which it refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.

Article 11
Data protection

Applications for access to documents are processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC⁴.

Article 12
Repeal

1. Decision 01-2004 of the Management Board concerning the arrangements to be applied by the agency for public access to documents is repealed.
2. References to the repealed Decision shall be construed as references to this Decision.

Article 13
Entry into force

This decision shall enter into force on the day of its adoption.

Done in Cologne, 13 December 2019

PEKKA HENTTU
Chair of the Management Board

⁴ OJ L 295, p39-98.

