



DECISION OF THE MANAGEMENT BOARD

Implementing rules concerning Regulation (EC) No 1049/2001 on public access to documents

THE MANAGEMENT BOARD,

HAVING REGARD TO Regulation (EU) 2019/128 of the European Parliament and of the Council of 16 January 2019 establishing a European Centre for the Development of Vocational Training (Cedefop) and repealing Council Regulation (EEC) No 337/75,

Whereas:

- (1) The general principles and limits governing right of access to documents as provided for in Article 255 of the Treaty have been laid down by 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,
- (2) When Regulation (EC) No 1049/2001 was adopted, the three Institutions agreed in a joint declaration that the Agencies and similar bodies should implement rules conforming to those of that Regulation,
- (3) Article 23(3) of Regulation (EU) 2019/128 of the European Parliament and of the Council 16 January 2019 establishing a European Centre for the Development of Vocational Training (Cedefop) and repealing Council Regulation (EEC) No 337/75 requires that Cedefop adopts 'detailed rules for applying Regulation (EC) No 1049/2001',
- (4) Clear rules will assist smooth administration by helping those responsible to deal accurately and rapidly with applications made by the public,

HAS ADOPTED THIS DECISION:

Article 1

Applicability and scope

1. The right of access concerns documents held by Cedefop, 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 right of access to Cedefop documents pursuant to Article 2(1) of Regulation (EC) No 1049/2001.
3. Pursuant to Article 2(2) of Regulation (EC) No 1049/2001, citizens of third countries not residing in a Member State and legal persons not having their registered office in one of the Member States shall enjoy the right of access to Cedefop documents on the same terms as the beneficiaries referred to in Article 2(1) of Regulation (EC) No 1049/2001.

Article 2

Applications for Access

1. Applications for access to Cedefop documents which are not publicly available shall be made in written form in a sufficiently precise manner to enable Cedefop to identify the documents.
2. Cedefop will maintain a dedicated section on its website allowing citizens to submit applications for access.
3. Cedefop shall answer initial and confirmatory access applications within fifteen working days from the date of registration of the application.
4. In the case of complex or bulky applications, the deadline may be extended by fifteen working days. Reasons must be given for any extension of the deadline and it must be notified to the applicant beforehand.
5. If an application is imprecise, as referred to in Article 6(2) of Regulation (EC) No 1049/2001, Cedefop 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 Cedefop has this information.
6. Any decision which is negative, fully or partly, shall state the reason for the refusal based on one of the exceptions listed in Article 4 of Regulation (EC) No 1049/2001.

Article 3

Treatment of initial applications

1. As soon as the application is registered, an acknowledgement of receipt shall be sent to the applicant.
2. The applicant shall be informed of the response to their application within 15 working days.
3. In the event of a total or partial refusal, the applicant may within 15 working days of receiving Cedefop's reply, make a confirmatory application asking Cedefop to reconsider its position.
4. Failure by Cedefop to reply within the prescribed time limit shall also entitle the applicant to make a confirmatory application.

Article 4

Treatment of confirmatory applications

1. The Executive Director shall take the decisions refusing access relating to confirmatory applications.
2. The decision shall be notified to the applicant in writing, and shall specify which of the exceptions provided for in Article 4 of Regulation (EC) No 1049/2001 it is based on and the reasons for it. It shall also inform the applicant of their right to initiate court proceedings or to lodge a complaint with the European Ombudsman.

Article 5

Third party documents

1. Where Cedefop receives an application for access to a document which it holds but which originates from a third party, Cedefop shall check whether one of the exceptions provided for under Article 4 of the Regulation applies.
2. If, after that examination, Cedefop considers 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. Cedefop 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 the Regulation or similar provisions;
 - (b) the disclosure, or partial disclosure, of its contents will not affect one of the interests referred to in Article 4 of the Regulation.

5. 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, Cedefop shall consult the originating authority.
6. The third party shall be requested to give its consultation within a period allowing Cedefop to respect its 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, Cedefop shall take a decision in accordance with the criteria set in article 4, paragraphs 1 and 2 of Regulation (EC) No 1049/2001 on the basis of the information at Cedefop's disposal.
7. If Cedefop intends to grant access to a document against the explicit opinion of the third party, it shall inform the third party of its intention to disclose the document after a period of 10 working days and shall draw their attention to the remedies available to them.

Article 6

Exercise of the right of access

1. Documents shall be sent in electronic form by email or, if that is not an option for the requestor, in hard-copy by mail. 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 Cedefop's website.

Article 7

Register of documents

In order to make citizen's rights deriving from Regulation (EC) No 1049/2001 effective, Cedefop shall provide access to a register of public documents available through Cedefop's website.

Article 8

Documents directly accessible to the public

1. This Article applies only to documents drawn up or received after the date from which Regulation (EC) No 1049/2001 applies.
2. The following documents shall be provided automatically on request, providing that no exceptions apply, and as far as possible made directly accessible:
 - a) agendas and final minutes of Management Board meetings;
 - b) agendas and conclusions of Executive Board meetings;

- c) decisions adopted by the Management Board and Executive Board;
 - d) documents originating from third parties which have already been disclosed by their author or with their consent;
 - e) documents already disclosed following a previous application.
3. Public access to the documents described in sub-paragraph 2 a), b) and c) above shall be subject to the approval of the Executive Director.

Article 9

Report

Cedefop shall publish annually, as part of its Consolidated Annual Activity Report, information concerning the implementation of this decision, in particular statistics on the number of requests for access to documents of Cedefop, the number of refusals and the reasons for such refusals.

Article 10

Entry into Force

This decision shall enter into force on the day of signature.

Done on 2 September 2019

For the Management Board

SIGNED

Tatjana Babrauskiene

Chairperson of the Management Board