IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

RULES GOVERNING PUBLIC ACCESS TO EUROPEAN PARLIAMENT DOCUMENTS

Bureau decision of 28 November 2001 [1] [2] [3] [4]

(2011/C 216/07)

THE BUREAU,

Having regard to Article 15(3) of the Treaty on the Functioning of the European Union (TFEU),

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 and, in particular, to Articles 11, 12 and 18 thereof,

Having regard to Rules 23(2) and (12), 103(1) and 104 of the Rules of Procedure,

Whereas the general principles governing access to documents were established, in accordance with Article 15(3) of the TFEU, by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001,

Whereas, pursuant to former Article 255(3) of the EC Treaty and to Article 18(1) of Regulation (EC) No 1049/2001, the European Parliament adapted its Rules of Procedure by Decision of 13 November 2001,

Whereas, pursuant to Rule 104(2), (3) and (4) of the Rules of Procedure, the Bureau is required to adopt rules establishing a register of references of documents, to lay down arrangements for access to and to determine the bodies responsible for the handling of applications for access,

Whereas the measures relating to the system of fees for the issue of documents must be brought into line with the provisions of Article 10 of Regulation (EC) No 1049/2001 in order to specify the additional costs to be paid by the applicant for the issue of very large documents,

Whereas the measures relating to the operation of the register of European Parliament documents need to be combined in a single decision in order to facilitate transparency for citizens,

Whereas Regulation (EC) No 1049/2001 does not allow any distinction to be made between different types of applicant and whereas decisions taken pursuant thereto apply erga omnes; whereas Members and staff of the institutions have special access rights, as recognised by Parliament's Rules of Procedure, the Financial Regulation, Regulation (EC) No 45/2001 and the Staff Regulations, which they may exercise without reference to Regulation (EC) No 1049/2001,

Whereas Regulation (EC) No 1049/2001 and this Decision do not govern interinstitutional access to and forwarding of documents, which are dealt with in interinstitutional agreements,

Whereas Regulation (EC) No 1049/2001 covers access to existing documents, and whereas requests for information are to be dealt with on the basis of other provisions,

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(1) OJ C 374, 29.12.2001, p. 1.
(2) Consolidated by the Bureau on 3 May 2004.
(3) As amended by the Bureau on 26 September 2005 and published in OJ C 289, 22.11.2005, p. 6.
(4) As amended by the Bureau on 22 June 2011 and published in OJ C 216, 22.7.2011, p. 19.

Whereas by its decision of 8 March 2010 the Bureau adopted a new list of categories of European Parliament documents that are directly accessible,

Whereas technical adjustments need to be made in the light of the experience gained over recent years within the institution and during the development of Parliament's intranet site,

HEREBY DECIDES:

TITLE I

ELECTRONIC REGISTER OF REFERENCES (ERR)

Article 1

Creation

1. An electronic register of references (ERR) shall be established for European Parliament documents.

2. The register of references thus created shall include references to documents drawn up or received (subject to the following paragraph) by the European Parliament after the date on which Regulation (EC) No 1049/2001 became applicable ([1]).

3. On the basis of Article 10(2) of Regulation (EC) No 1049/2001, it shall not be necessary for documents of other institutions that have been received by the European Parliament and are already easily accessible in the electronic registers of the institutions concerned to be made available in the ERR. In such cases, the ERR shall provide a link to the register of the originating institution.

4. These references shall constitute the 'document's identity papers' which include not only the data required by Article 11(2) of Regulation (EC) No 1049/2001 but also, as far as possible, references which enable the originating authority of each document, the available languages, the status of the document, the category of the document and the place of storage of the document to be identified.

Article 2

Objectives

The ERR shall be structured so as to allow:

— documents to be identified on the basis of a uniform reference system,

— direct access to documents, in particular legislative documents, in electronic form,

— the provision of information in cases where documents cannot be directly accessed electronically pursuant to Articles 4 and 9 of Regulation (EC) No 1049/2001.

Article 3

Operation

The Unit for Transparency — Public Access to Documents and Relations with Lobbyists (hereinafter 'the unit responsible') shall:

— monitor the recording in the ERR of documents drawn up or received by the European Parliament,

— receive and process applications for access in written or electronic form within a time limit of 15 working days, which may be extended,

— send out acknowledgements of receipt,

— assist applicants with clarifying the substance of their applications and negotiate with applicants where applications relate to very long or complex documents,

— assist applicants with access to documents already published,

— coordinate the reply with the service which originated or holds the document or the authorised person when the application relates to a document not recorded in the register or a document subject to the restrictions laid down in Articles 4 and 9 of Regulation (EC) No 1049/2001,

— consult third parties pursuant to Article 4(4) of Regulation (EC) No 1049/2001.

Article 4

Entry of documents in the ERR

1. Document references shall be entered in the ERR in accordance with instructions adopted by the Secretary-General which shall ensure maximum traceability of the documents. The range of documents covered by the ERR shall gradually be broadened and shall be displayed on the ERR home page on the Europarl site.

2. European Parliament documents as defined by Rule 104(2) of the European Parliament's Rules of Procedure shall be recorded in the ERR under the responsibility of the body or service which is the originator of the document.

([1]) I.e. 3 December 2001.

3. Documents drawn up under the legislative procedure or for the purposes of parliamentary business shall be entered in the ERR as soon as they have been tabled or made public.

4. Other documents which fall within the remit of the administrative services of the European Parliament's Secretariat shall, as far as possible, be entered in the ERR in accordance with the Secretary-General's instructions.

5. References for third-party documents within the meaning of Article 3 of Regulation (EC) No 1049/2001 shall be entered in the ERR by the service to which the documents were sent.

Article 5

Directly accessible documents

1. All documents drawn up or received by the European Parliament under the legislative procedure must be accessible to citizens in electronic form, subject to the restrictions laid down in Articles 4 and 9 of Regulation (EC) No 1049/2001.

2. The European Parliament shall make all legislative documents within the meaning of Article 12(2) of Regulation (EC) No 1049/2001 electronically accessible through the ERR or the Europarl internet site.

3. The categories of documents that are directly accessible shall be set out in a list adopted by the Bureau and posted on the Europarl internet site. That list shall not have the effect of circumscribing the right of access to documents not included in the listed categories, which may be made accessible on written request.

Article 6

Documents accessible on request

1. Documents drawn up or received by the European Parliament outside the legislative procedure shall, as far as possible, be directly accessible to citizens through the ERR, subject to the restrictions laid down in Articles 4 and 9 of Regulation (EC) No 1049/2001.

2. Where entry of a document in the ERR 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 apply for access to the document in writing or using the electronic form available on the ERR site on Europarl.

3. Documents drawn up or received by the European Parliament before the entry into force of Regulation (EC) No 1049/2001 and therefore not listed in the ERR shall be accessible on written or electronic request, subject to the restrictions laid down in Articles 4 and 9 of the Regulation referred to above.

4. The European Parliament shall provide on-line assistance to citizens concerning arrangements for the submission of applications for access to documents.

TITLE II

INITIAL APPLICATIONS

Article 7

Applications covered by these rules

These rules shall apply to all applications for access to European Parliament documents that are submitted using the form available on the ERR site or refer explicitly to the right of access to documents as established by Regulation (EC) No 1409/2001. They shall not cover applications based on a special right of access such as that established by, inter alia, Parliament's Rules of Procedure, the Financial Regulation, Regulation (EC) No 45/2001 on the protection of personal data and the Staff Regulations.

Article 8

Submission of the application for access

1. Applications for access to a European Parliament document may be made in writing, by fax or in electronic form in one of the languages listed in Article 342 of the TFEU.

2. Electronic applications shall, wherever possible, be submitted using the electronic form available on the ERR site and the on-line help system intended to facilitate the submission of applications of this kind.

3. Applications must be made in a sufficiently precise manner and include the name and address of the applicant and information enabling the document or documents requested to be identified.

4. If an application is not sufficiently precise, the European Parliament shall, pursuant to Article 6(2) of Regulation (EC) No 1049/2001, ask the applicant to clarify it and shall assist him or her to do so.

Article 9

Processing of the initial application

1. Applications for access to a document held by the European Parliament shall be sent, on the same day as it is registered, by the unit responsible, which must acknowledge receipt of the application, draft a reply and deliver the document within the prescribed time limit.

2. Where the application relates to a document drawn up by the European Parliament to which one of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001 is applicable, or where the document in question needs to be identified and found, the unit responsible 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.

Article 10

Third party consultation

1. Where an application concerns documents from third parties, the unit responsible, where appropriate in coordination with the service holding the documents requested, shall check whether one of the exceptions laid down in Articles 4 or 9 of Regulation (EC) No 1049/2001 is applicable.

2. If, once that check has been made, it is established that access to the documents requested must be denied on the basis of one of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001, a negative response shall be sent to the applicant without consulting the originating third party.

3. The unit responsible shall grant the application without consulting the originating third party where:

— the document requested has already been released by its originator pursuant to Regulation (EC) No 1409/2001 or similar provisions,

— it is clear that the disclosure of all or part of its content will not harm any of the interests referred to in Articles 4 to 9 of Regulation (EC) No 1049/2001.

4. In all other cases, the third party shall be consulted and shall be given five working days in which to make its position known, with a view to assessing whether one of the exceptions laid down in Articles 4 or 9 of Regulation (EC) No 1049/2001 is applicable.

5. If no reply is received within that deadline, or if the third party cannot be identified or contacted, the European Parliament shall take a decision on the matter in accordance with the exceptions provisions laid down in Article 4 of Regulation (EC) No 1049/2001, taking due account of the legitimate interests of the third party on the basis of the information in its possession.

Article 11

Deadline for reply

1. Where access is granted, the unit responsible shall supply the requested documents within a period of 15 working days from the registration of the application.

2. Where the European Parliament is unable to grant access to the requested documents, 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 submit a confirmatory application.

3. In that event, the applicant shall have 15 working days from receipt of the reply in which to submit a confirmatory application.

4. In exceptional cases, where an application relates to a very long document or a large number of documents, the period laid down in paragraph 1 of this Article may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

5. Failure by the European Parliament to reply within the prescribed time limit shall entitle the applicant to submit a confirmatory application.

Article 12

Competent authority

1. Initial applications submitted to the European Parliament shall be handled by the Secretary-General under the authority of the Vice-President responsible for supervision of the handling of applications for access to documents, as provided for by Rule 104(4) and (6) of the European Parliament's Rules of Procedure.

2. Favourable replies to initial applications shall be forwarded to the applicant by the Secretary-General or by the unit responsible, acting under the authority of the Secretary-General.

3. Refusal of an initial application, with a statement of the reasons, shall be determined by the Secretary-General on a proposal from the unit responsible and after consultation of the document originator. Any decision to deny access shall be forwarded to the Vice-President responsible, for information.

4. The Secretary-General or the unit responsible may, at any time, refer an application to the Legal Service and/or the officer responsible for data protection for an opinion on the action to be taken thereon.

TITLE III

CONFIRMATORY APPLICATIONS

Article 13

Submission

1. Confirmatory applications shall be submitted either within 15 working days of receipt of a total or partial refusal of access to the document requested or, in the absence of any reply to the initial application, after the expiry of the deadline for reply.

2. Confirmatory applications must comply with the formal requirements laid down for the initial application in Article 8 of this Decision.

Article 14

Processing and consultations

1. Confirmatory applications shall be registered and any consultations conducted in accordance with the arrangements laid down in Articles 9 and 10 of this Decision.

2. Within 15 working days of registration of the application, the European Parliament shall either grant access to the document or notify the applicant in writing or electronically 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 period laid down in the previous paragraph may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

Article 15

Competent authority

1. The reply to confirmatory applications shall be a matter for the Bureau of the European Parliament. The Vice-President responsible for the processing of applications for access to documents shall take a decision on confirmatory applications on behalf of the Bureau and under its authority.

2. The Vice-President concerned shall inform the Bureau of his or her decision at the first meeting of the Bureau which follows the taking of the decision and notification thereof to the applicant. Should he or she deem it necessary, and within the time-limits laid down, the Vice-President may refer his or her draft decision to the Bureau, in particular if the reply might involve matters of principle relating to the European Parliament's policy of transparency. In his or her reply to the applicant, the Vice-President shall be bound by the decision of the Bureau.

3. The Vice-President and the Bureau shall take a decision on the basis of the proposal drawn up by the unit responsible by way of delegation from the Secretary-General. That unit shall be entitled to seek the opinion of the officer responsible for data protection, who shall deliver his or her opinion within three working days.

4. The draft reply may be referred, for prior consideration, to the Legal Service, which shall deliver its opinion within three working days.

Article 16

Remedies

1. Where the European Parliament 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 or submitting a complaint to the Ombudsman, under the conditions laid down in Articles 263 and 228 of the TFEU.

2. Failure to reply within the prescribed time limit shall be regarded as a negative response and entitle the applicant to bring an action or submit a complaint under the conditions set out in the previous paragraph.

TITLE IV

ENTRY OF, AND ACCESS TO, SENSITIVE DOCUMENTS IN THE ERR

Article 17

Entry of sensitive documents in the ERR

1. Sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001 shall be entered in the ERR if the originating authority agrees that they may be. Where such documents are received from third parties, the individuals or bodies within the European Parliament which received them shall determine which references may appear in the register. Those individuals or bodies shall consult the Vice-President responsible for the processing of applications for access to documents, the Secretary-General or, where appropriate, the chairman of the parliamentary committee concerned.

2. Any document drawn up by the European Parliament referring to a sensitive document shall be entered in the ERR only with the authorisation of the Vice-President responsible for the processing of applications for access to documents. The references assigned to such a document shall be determined under the conditions set out in the previous paragraph.

Article 18

Processing of applications for access

The Secretary-General shall forward applications for access to sensitive documents to the Vice-President responsible for the processing of applications for access to documents, who shall be responsible for the reply to the initial application. The reply to a confirmatory application shall be a matter for the Bureau, which may delegate this task to the President. The Vice-President responsible and the Bureau or the President shall consult the Secretary-General or, where appropriate, the chairman of the parliamentary committee concerned. The registration arrangements and time limits shall be the same as those for other access applications

Article 19

Authorised persons

While applications for access to sensitive documents are being processed, the persons authorised to read the documents shall be: the President of the European Parliament, the Vice-President responsible for supervision of the processing of applications for access to documents, the chairman of the parliamentary committee directly concerned, the Secretary-General and, subject to due authorisation, the staff of the unit responsible, unless agreements with the other institutions provide for special authorisation.

Article 20

Protection of sensitive documents

Sensitive documents shall be subject to strict security rules so as to ensure their confidential handling in the European Parliament. Those rules shall take due account of interinstitutional agreements.

TITLE V

ISSUE OF DOCUMENTS

Article 21

Cost of the reply

1. Further to Article 10(1) of Regulation (EC) No 1049/2001, if the documents requested run to more than 20 pages, the applicant may be charged a fee of EUR 0,10 per page, plus delivery costs. The charges for other media shall be determined on a case-by-case basis, but shall not exceed a reasonable amount.

2. Published documents are not covered by this Decision and shall continue to be subject to their own pricing system.

TITLE VI

APPLICATION

Article 22

Application

This Decision shall apply with due regard for and without prejudice to the provisions of Regulation (EC) No 1049/2001 and of the European Parliament's Rules of Procedure.

Article 23

Review

As a minimum requirement, this Decision shall be reviewed whenever Regulation (EC) No 1049/2001 is revised.

Article 24

Entry into force

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union* [1].

[1] I.e. 29 December 2001, 22 November 2005 and 22 July 2011.