



EUROPEAN COMMISSION
HEALTH & CONSUMER PROTECTION DIRECTORATE-GENERAL

Directorate C - Public Health and Risk Assessment
C6 - Health measures

Brussels, 12 October 2004

SANCO /C6/JB

**EUROPEAN CENTRE FOR DISEASE PREVENTION AND CONTROL
THE MANAGEMENT BOARD**

Decision

Rules for implementing Article 20 (2) of the Regulation (EC) No 851/2004, on access to documents of the European Centre for Disease Prevention and Control

Having regard to the Treaty establishing the European Community, and in particular Article 255 thereof,

Having regard to the Declaration (No 17) attached to the Final Act of the Treaty on European Union on the right of access to information, that transparency of the decision-making process strengthens the democratic nature of the Institutions and the public's confidence in the administration,

Having regard to Regulation (EC) No 851/2004¹ (hereinafter referred to as 'the Regulation') of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for Disease Prevention and Control, hereinafter referred to as the 'Centre',

Having regard to Regulation (EC) No 1049/2001² of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents,

Having regard to Article 20 (2) of the Regulation, requiring the Management Board of the Centre to adopt the practical arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of the Regulation,

Whereas these simplified rules do not imply any changes to the Regulations mentioned above but provide a practical guide on them for the Centre.

Whereas the mission of the Centre shall be to identify, assess and communicate current and emerging threats to human health from communicable diseases.

¹ OJ L 142, 30.4.2004, p.1

² OJ L 145, 31.5.2001, p. 43

The Management Board of the Centre has adopted the following Decision:

ARTICLE 1 – SCOPE

1. The scope of this Decision is to ensure the widest possible access to the documents the Centre produces, receives or has in its possession.
2. Access to certain documents shall be refused by virtue of application of one or more of the exceptions mentioned in Article 4 of Regulation (EC) No 1049/2001
3. The rules for the classification of the Centre's documents are set out in the Annex to this Decision.

ARTICLE 2 – DEFINITIONS

1. 'Document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the Centre's sphere of responsibility.
2. 'Third party' shall mean any natural or legal person, or any entity outside the Centre, including the Member States, other Community or non-Community Institutions and bodies and third countries.

ARTICLE 3 – EXCEPTIONS

1. The Centre shall refuse access to a document where disclosure would undermine the protection of:
 - a) the public interest as regards public security, defence and military matters, international relations, the financial, monetary or economic policy of the Community or a Member State;
 - b) the privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.
2. The Centre shall refuse access to a document where the disclosure would undermine the protection of commercial interests of a 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.
3. Access to a document, produced, received or in possession of the Centre shall be refused if disclosure of the document would seriously undermine the decision-making process, unless there is an overriding public interest in disclosure.
4. As regards to third-party documents, the Centre shall consult the third party involved with a view to assessing whether an exception mentioned in paragraph 1 or 2 of this

Article is applicable, unless it is clear that the document shall or shall not be disclosed.

ARTICLE 4 – CLASSIFICATION OF DOCUMENTS

The Centre's documents shall be classified in one of the following categories: public, restricted or confidential, in accordance with the Annex to this Decision.

ARTICLE 5 – REQUESTS FOR ACCESS

1. Applications for access to those Centre's documents which are not publicly available, shall be made in writing, including electronic form, to the Director and in sufficiently precise manner to enable the Centre to identify the document(s).
2. If an application is not sufficiently precise, the Centre shall ask the applicant to clarify his or her request and shall assist the applicant in doing so, for example by providing information on the use of public registers of documents.

ARTICLE 6 – PROCEDURES

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from receipt of the application, the Centre shall either grant access to the document requested in accordance with Article 7 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to ask the Centre to reconsider its position in accordance with paragraph 2 of this Article.
2. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the Centre's reply, ask the Centre to reconsider its position.
3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 of this Article may be extended by another 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.
4. Failure by the Centre to reply within the prescribed time-limit shall also entitle the applicant to ask the Centre to reconsider its position.
5. The request to the Centre to reconsider its position shall be handled promptly. Within 15 working days from the receipt of such a request, the Centre shall either grant access to the document(s) concerned in accordance with Article 7 within that period, or in a written reply state the reasons for the total or partial refusal. In the event of a total or partial refusal, the Centre shall inform the applicant of the remedies open to him or her, namely to lodge a complaint to the European Ombudsman or institute court proceedings against the Centre under Article 195 or 230 of the Treaty establishing the European Community, respectively.

6. Failure by the Centre to reply within the time-limit prescribed in the previous paragraph shall be considered as a negative reply and entitles the applicant to take any of the remedies described in that paragraph.

ARTICLE 7 – CONSULTATION FOLLOWING APPLICATION

1. Applicants shall have access to documents either by receiving a copy, in paper or electronic format, or by consulting specific documents on the Centre's premises. Copies of less than 20 pages or via 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.
2. All documents are subject to the Centre's copyright policy available on the Centre's website

ARTICLE 8 –REGISTER OF DOCUMENTS

1. To make citizen's rights under this Decision effective, the Centre shall provide public access to an electronic register of documents available in particular through the Centre's website. References to documents shall be recorded in that register without delay.
2. The register shall contain the title of the document, an identifier, the subject matter and/or a short description of the document and the date on which it was drawn up and recorded in the register.

ARTICLE 9 – REPORT

The Management Board, acting on a proposal from the Director, shall publish annually, as part of the annual activity report, information concerning the implementation of this Decision, in particular statistics on the number of requests for access to the Centre’s documents, the number of refusals and the main reasons for such refusals.

ARTICLE 10 – ENTRY INTO FORCE

1. This Decision shall enter into force as soon as it is adopted. It shall be made available on the Centre’s website.
2. The Management Board may review this Decision whenever deemed necessary and adopt any modifications needed.
3. The European Ombudsman shall be informed of this Decision and subsequent revisions.

Done at Stockholm,2004

For the Management Board,
The Chair

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a downward-pointing arrow and a horizontal line.

ANNEX

Classification of documents

This Annex sets out the Centre's rules on classification of documents and provides indications on the types of documents covered by the different levels of classification. It follows the Commission Decision of 29 November 2001 amending the EU Commissions internal Rules of Procedure (2001/844³).

1. PUBLIC

Documents not classified under one of the categories below are considered public

2. RESTRICTED

This classification shall be applied to information and material of which the unauthorised disclosure could be **disadvantageous to the interest** of the European Union Institutions, the Member States and the Centre. These are typically characterised by the fact that they may at some stage be made available to the public, but that their premature disclosure might be prejudicial to the interest of the Centre, including relations with Member States, EU Institutions and bodies.

3. CONFIDENTIAL

This classification shall be applied to information and material of which the unauthorised disclosure could **harm the essential interest** of the European Union Institutions, the Member States and the Centre, and in particular would be likely to:

- Cause unfair financial loss or facilitate improper gain or advantage for individuals or companies
- Breach undertakings to maintain the confidence of information provided by third parties
- Breach statutory restrictions on disclosure of information
- Disadvantage the Centre in commercial or policy negotiations with others
- Impede or undermine the effective management or cooperation of the Centre.

³ OJ L 317, 03.12.2001, p.1