



GOVERNING BOARD DECISION
of 30 April 2004
amending ETF's rules of procedure

THE EUROPEAN TRAINING FOUNDATION ("ETF"),

Having regard to the Treaty establishing the European Community, and in particular Article 218(2) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 16 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 131 thereof,

Having regard to the Treaty on European Union, and in particular Article 28(1) and Article 41(1) thereof,

Having regard to Regulation (EC) N° 1049/2001 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 Council Regulation 1648/2003 of 18 June 2003 amending Regulation (EEC) No 1360/90 establishing a European Training Foundation,

HAS DECIDED AS FOLLOWS:

Article 1

The detailed rules for the application of Regulations (EC) 1049/2001 and 1648/2003, which are set out in the Annex to this Decision, are annexed to the ETF's Rules of Procedure.

Article 2

Governing Board Decision ETF-GB-03-018 is repealed.

Article 3

The Decision shall enter into force on the day of its publication in the Official Journal of the European Communities.

Done at Turin, *30 April 2004*

For the Governing Board

The Chairman
 Nikolaus van der Pas

Detailed rules for the application of Regulations (EC) 1049/2001 and 1648/2003 regarding public access to European Training Foundation (ETF) documents

Whereas:

- (1). In accordance with Article 255(2) of the EC Treaty, the European Parliament and the Council adopted Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents.
- (2). In accordance with Article 255(3) of the Treaty, Article 18 of the Regulation, which lays down general principles and limits for the exercise of the right of access to documents, provides that each institution is to adapt its Rules of Procedure to the provisions of the Regulation.
- (3). The Council adopted Regulation (EC) N° 1648/2003 amending Regulation (EEC) No 1360/90 establishing a European Training Foundation, which lays down provisions for the application of Regulation (EC) N° 1049/2001 to documents held by the ETF.

Article 1

Definitions

1. **Initial application:** shall mean the first request by a natural or legal person for access to a document.
2. **Confirmatory application:** shall mean a subsequent request by a natural or legal person for access to a document, which refers to an initial request.
3. **Classified document:** shall mean any document falling within ETF's security rules for access to documents.

Article 2

Beneficiaries

1. Citizens of the Union and natural or legal persons residing or having their registered office in a Member State shall exercise their right of access to ETF documents under Article 255(1) of the Treaty and Article 2(1) of Regulation (EC) N° 1049/2001 in accordance with these detailed rules. This right of access concerns documents held by ETF, that is to say, documents drawn up or received by it and in its possession (see 6 below).
2. Pursuant to Article 2(2) of Regulation (EC) N° 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 ETF documents on the same terms as the beneficiaries referred to in Article 255(1) of the Treaty.
3. However, pursuant to Article 195(1) of the Treaty, they shall not have the option of laying a complaint before the European Ombudsman. But if ETF wholly or partly refuses them access to a document after a confirmatory application (see 5 below), they may bring an action before the Court of First Instance of the European Communities in accordance with the fourth paragraph of Article 230 of the Treaty.

Article 3

Access applications

1. All applications for access to a document shall be sent by mail, fax or e-mail to:
ETF,
The Director,
Viale Settimio Severo 65,
I-10133 Torino,
Fax: +39 011 630 2200
getdocuments@etf.eu.int
clearly stating the reference "Application for access to ETF document".
2. ETF shall answer initial and confirmatory access applications within fifteen working days from the date of registration of the application. In the case of complex or bulky applications for instance, the deadline may be extended by fifteen working days. Reasons must be given for any extension of the deadline and it must be notified in writing to the applicant beforehand.
3. If an application is imprecise, as referred to in Article 6(2) of Regulation (EC) N° 1049/2001, ETF shall invite 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 ETF has this information.
4. Any decision which is even partly negative shall state in writing the reason for the refusal based on one of the exceptions listed in Article 4 of Regulation (EC) N° 1049/2001 and shall inform the applicant of the remedies available to him.

Article 4

Treatment of initial applications

1. Without prejudice to Article 10 of these Rules, as soon as the application is registered, an acknowledgement of receipt shall be sent to the applicant, unless the response to the application can be sent by return post.
2. The acknowledgement of receipt and the response to the application shall be sent in writing, where appropriate, by electronic means.
3. The applicant shall be informed of the response to his application by the department, unit or service concerned.
4. Any answer which is even partly negative shall inform the applicant of his right to submit to the Director of the ETF, within fifteen working days from receipt of the answer, a confirmatory application.

Article 5

Treatment of confirmatory applications

1. The Director has the power to take decisions on confirmatory applications. The department, unit or service concerned shall assist the Director in the preparation of the decision.
2. The decision shall be taken by the Director in consultation with the ETF Legal Service.

3. The decision shall be notified to the applicant in writing, where appropriate by electronic means, and inform him of his right to bring an action before the Court of First Instance or to lodge a complaint with the European Ombudsman.

Article 6

Consultations

1. Where ETF receives an application for access to a document which it holds but which originates from a third party, it shall check whether one of the exceptions provided for by Article 4 of Regulation (EC) N° 1049/2001 applies. If the document requested is classified under ETF's security rules, article 7 of these Rules shall apply.
2. If, after that examination, ETF considers that access to it must be refused under one of the exceptions provided for by Article 4 of Regulation (EC) N° 1049/2001, the negative answer shall be sent in writing to the applicant without consultation of the third-party author.
3. ETF shall grant the application without consulting the third-party author where the document requested has already been disclosed either by its author or under Regulation (EC) N° 1049/2001 or similar provisions;
4. Unless the document originates from a Member State, ETF shall grant the application without consulting the third party author where it is obvious that the disclosure, or partial disclosure, of its contents would not affect one of the interests referred to in Article 4 of Regulation (EC) N° 1049/2001.
5. In all the other cases, and in particular if an application for access concerns a document originating from a Member State, the third-party author shall be consulted.
6. The third-party author consulted shall have a deadline for reply, which shall be no shorter than five working days from the date of receipt of the notification, but must enable ETF to abide by its own deadlines for reply. In the absence of an answer within the prescribed period, or if the third party is untraceable or not identifiable, ETF shall decide in accordance with the rules on exceptions 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 its disposal.
7. If ETF intends to give access to a document against the explicit opinion of the author, it shall inform the author of its intention to disclose the document after a ten-working day period from the date of the notification and shall draw his attention to the remedies available to him to oppose disclosure.
8. Where a Member State receives an application for access to a document originating from ETF, it may, for the purposes of consultation, contact the Director, who shall be responsible for determining the department responsible for the document within ETF.

Article 7

Treatment of applications for access to classified documents

1. Where an application for access concerns a sensitive document as defined in Article 9(1) of Regulation (EC) N° 1049/2001, or another document classified under ETF's security rules, it shall be handled by officials entitled to acquaint themselves with the document.
2. Reasons shall be given on the basis of the exceptions listed in Article 4 of Regulation (EC) N° 1049/2001 for any decision refusing access to all or part of a classified document. If it proves that access to the requested document cannot be refused on the

basis of these exceptions, the official handling the application shall ensure that the document is declassified before sending it to the applicant.

3. The agreement of the originating authority shall be required if access is to be given to a sensitive document.

Article 8

Exercise of the right of access

1. Documents shall be sent by mail, fax or, if available, by e-mail, depending on the application. 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.
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 ETF or EUROPA site.
3. If the volume of the documents requested exceeds twenty pages, the applicant may be charged a fee of EUR 0.10 per page plus carriage costs. The charges for other media shall be decided case by case but shall not exceed a reasonable amount.

Article 9

Measures facilitating access to the documents

1. The coverage of the register provided for by Article 11 of Regulation (EC) N° 1049/2001 shall be extended gradually. It shall be announced on ETF homepage.
2. The register shall contain the title of the document (in the languages in which it is available), its serial number and other useful references, an indication of its author and the date of its creation or adoption.
3. A help page (in all official languages) shall inform the public how the document can be obtained. If the document is published, there shall be a link to the full text.

Article 10

Documents directly accessible to the public

1. This Article applies only to documents drawn up or received after the date from which Regulation (EC) N° 1049/2001 applies.
2. The following documents shall be automatically provided on request and, as far as possible, made directly accessible by electronic means:

- 2.1. agendas for ETF Governing Board meetings;
- 2.2. ordinary minutes of ETF Governing Board meetings, after approval;
- 2.3. documents adopted by ETF for publication in the Official Journal of the European Communities ;
- 2.4. documents originating from third parties which have already been disclosed by their author or with his consent;
- 2.5. documents already disclosed following a previous application.