

**DECISION OF THE ADMINISTRATIVE BOARD  
of 19 March 2013**

**Amending the Decision of the Administrative Board concerning the arrangements  
to be applied by the Agency for public access to documents of 25 June 2004**

THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY,

Having regard to the Regulation (EC) No 1406/2002 the European Parliament and of the Council of 27 June 2002, as amended, establishing a European Maritime Safety Agency, and in particular article 4(3) thereof;

Having regard to the 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;

Whereas it is necessary to establish practical arrangements for implementing Regulation (EC) No 1049/2001

HAS DECIDED AS FOLLOWS:

**Article 1**

The decision of the Administrative Board concerning the arrangements to be applied by the Agency for public access to documents of 25 June 2004 (amended on 12 March 2009) is amended as follows:

1. Article 1, paragraph 2 is added as follows and the following paragraphs renumbered accordingly:  
"2. The right of access concern documents held by the Agency, that is to say, documents drawn up or received by it and in its possession."
2. In Article 2 paragraphs 1 and 2 shall be replaced as follows:  
"1. Applications for access to a document shall be sent to the Agency by electronic mail or by post. The relevant contact details are listed in the Annex to this Decision. The Annex may be updated, as required, by the Agency.  
2. The Agency shall respond to initial and confirmatory applications within fifteen working days from the date the application is registered."
3. In Article 2 paragraph 4 shall be replaced as follows:

"4. If an application is imprecise, as referred to in Article 6.2 of Regulation 1049/2001, the Agency shall invite the applicant to provide additional information to clarify the application. The deadline for the Agency to respond to the application shall be fifteen working days from receiving the information necessary to identify the document in question."

4. Articles 3-5 are replaced as follows:

**"Article 3 - processing of initial applications**

1. Applications for access to documents shall be handled promptly.
2. Acknowledgement of receipt shall be sent to the applicant promptly.
3. Within 15 working days from receipt of the application, the Agency shall either grant access to the document requested and provide access in accordance with Article 6 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 Agency to reconsider its position in accordance with paragraph 4 of this Article.
4. In the event of a total or partial refusal, the applicant may, within 15 working days from reception of the Agency's reply ask the Agency to reconsider its position by submitting a confirmatory application.
5. Failure by the Agency to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application.

**Article 4 – processing of confirmatory applications**

1. The Agency Executive Director shall take decisions regarding confirmatory applications. He/she shall be assisted in this task by the document access co-ordinator and, if necessary, the Agency unit which produced or received the document in question.
2. The decision shall be notified to the applicant in writing, where appropriate by electronic means, and shall inform him or her of their right to bring an action before the General Court or, if appropriate, to lodge a complaint with the European Ombudsman.
3. Failure by the Agency to reply within the prescribed time limit shall be considered as a negative reply and entitles the applicant to lodge a complaint to European Ombudsman or institute Court proceeding against the Agency.

**Article 5 – third-party documents**

1. Where the Agency receives an application for access to a document which it holds but which originates from a third party, the Agency shall check whether one of the exceptions provided for under article 4 of Regulation 1049/2001 applies.
2. If, after that examination, the Agency considers that access to it must be refused under one of the exceptions provided for by Article 4 of Regulation 1049/2001, the negative answer shall be sent to the applicant without consultation of the third-party author.
3. The Agency 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 1049/2001 or similar provisions,
  - b. 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 1049/2001.
4. In all other cases, the third-party author shall be consulted. The third party consulted shall be given a deadline for reply which shall allow the Agency to respect 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, the Agency shall reach a decision in accordance with the criteria set out in article 4 of Regulation 1049/2001, taking into account the legitimate interests of the third party on the basis of the information at his or her disposal.
5. If the Agency 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 and shall draw his or her attention to the remedies available to him or her to oppose disclosure."
5. New Article 6 is added as follows and the following Articles renumbered accordingly:

**"Article 6 – consultations on the Agency publications**

The Agency shall consult Member State on the Agency publications that include information originating from the Member State."

6. In Article 7 paragraph 3 is replaced as follows:

"3 If the volume of the documents requested exceeds twenty pages, the applicant may be charged a fee of 0.10 Euro per page plus shipment costs. The charges for other media shall be decided on case by case basis and shall not exceed a reasonable amount."
7. In Article 7 new paragraph 4 is added as follows:

"4 All documents are subject to the Agency copyright policy available on the Agency website ([www.emsa.europa.eu](http://www.emsa.europa.eu))."
8. Articles 8-9 are replaced as follows:

**"Article 8 – measures facilitating access to documents<sup>1</sup>**

1. In order to make the right of access provided for in Regulation 1049/2001 effective, the Agency shall provide access to a register of documents. The register shall be accessible in electronic form on the Agency website.
2. The register shall contain the title of the documents and other useful references to identify the document. The aim of the register is to assist the public in finding

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<sup>1</sup> Article 7 amended on amended on 12.03.2009

specific documents. If a document is published, there shall be a link to the document in question.

### **Article 9 - documents directly accessible to the public**

1. The following documents shall be made directly accessible by electronic means:
    - a. all adopted EU legislation related to the Agency's mandate;
    - b. all Agency Administrative Board Meetings decisions and minutes;
    - c. the annual budget of the Agency;
    - d. Annual Reports
    - e. Annual Work Programmes
    - f. The EMSA 5 year strategy
    - g. all press releases or other publications made by the Agency.
  2. The Agency Executive Director may add documents to the list of documents in paragraph 1 as appropriate.
  3. As far as possible the following documents shall be made directly accessible by electronic means:
    - a. documents originating from third parties which have already been disclosed by their author or with his or her consent;
    - b. documents already disclosed following a previous application.”
9. Annex is replaced as follows:

#### **“Annex**

I. Requests for documents may be submitted:

**by filling out a document request form:** available on EMSA website <http://emsa.europa.eu/emsa-documents/access-to-documents/document-request.html>

**by ordinary mail :**

Document Access Coordinator

European Maritime Safety Agency (EMSA)

Cais do Sodré

1249-206 Lisbon, Portugal

**by electronic mail:**

Documents@emsa.europa.eu

In order to enable us to process your request, please state your surname, forename, address, town and postcode, country, and telephone number.

II. Charges

The Agency provides documents electronically.


If the volume of the documents requested shall be sent by post and exceeds twenty pages a fee may be levied of 0,10 Euro per page plus shipment costs.”

## Article 2

This Decision shall enter into force on the day of adoption by the Administrative Board.

Done at Lisbon on 19 March 2013,

Frans van Rompuy  
Chairman of the Administrative Board

A handwritten signature in blue ink, appearing to read 'Frans van Rompuy', is written over a horizontal line. The signature is stylized and cursive.