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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Application of Article 15 TFEU to EU institutions and bodies other than the European Parliament, the Council and the Commission

At annex, delegations will find for their information a list of current legal bases for the application of Regulation 1049/2001 or corresponding rules to EU institutions and bodies other than the European Parliament, the Council and the Commission.¹

Five of the bodies listed in the annex are considered to be part of the European Commission for the application of Regulation 1049/2001 (CERT, EPSO, European School of Administration, Publications Office and Euratom Supply Agency).

For 41 of them, a specific provision makes Regulation 1049/2001 applicable. (In the case of ECHA an additional specific provision related to the exception concerning commercial interests applies – see the ECHA entry in the annex.)

¹ However, this note does not cover CFSP missions and bodies.

For 5 of them, a specific provision obliges the body to adopt rules on access to documents "taking into account the principles and limits" set out in Regulation (EC) No 1049/2001 (CEPOL, EUROPOL, EUROJUST, EUISS and EUSC).

For 9, there are equivalent provisions (Court of Justice of the EU, Court of Auditors, Economic and Social Committee, Committee of the Regions, European Central Bank, European Systemic Risk Board, European Investment Bank and European Investment Fund, European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy)).

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Institutions and bodies set up by the Treaties

European Council

Article 10(2) of the European Council's *Rules of Procedure*¹ states:

"The provisions concerning public access to Council documents set out in Annex II to the Rules of Procedure of the Council shall apply mutatis mutandis to European Council documents."

In turn, the Council's Rules of Procedure² refer to Regulation 1049/2001; Article 1 of Annex II to these Rules of Procedure states:

"Any natural or legal person shall have access to Council documents subject to the principles, conditions and limits laid down in Regulation (EC) No 1049/2001 and the specific provisions laid down in this Annex."

Court of Justice of the European Union³

Note: Pursuant to Article 15 TFEU, "[t]he Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to [the right of access to documents] only when exercising their administrative tasks."

Public access to documents held by the Court of Justice of the European Union is governed by the *Decision of the Court of Justice of the European Union of 11 December 2012 concerning public access to documents held by the Court of Justice of the European Union in the exercise of its administrative functions*⁴.

¹ European Council Decision 2009/882/EU of 1 December 2009; OJ L 315 of 02.12.2009, p. 52.

² Council Decision 2009/937/EU of 1 December 2009; OJ L 325 of 11.12.2009, p. 35.

³ Pursuant to Article 19 EU Treaty, "[t]he Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts." The only specialised court currently established is the Civil Service Tribunal.

⁴ OJ C 38 of 09.02.2013, p. 2.

Court of Auditors

Public access to documents held by the Court of Auditors is governed by *Decision No 12/2005 (as amended by Decision 14/2009) of the Court of Auditors of the European Communities of 10 March 2005 regarding public access to Court documents*⁵.

European Economic and Social Committee

Public access to documents held by the European Economic and Social Committee is governed by *Decision 2003/603/EC of the European Economic and Social Committee of 1 July 2003 on public access to European Economic and Social Committee documents*⁶.

Committee of the Regions

Public access to documents held by the Committee of the Regions is governed by

- *Committee of the Regions Decision No. 64/2003 of 11 February 2003 on public access to Committee of the Regions documents*⁷
- *Committee of the Regions Decision No. 128/2003 of 17 June 2003 on public access to Committee of the Regions documents via the Electronic Document Register*⁸.

⁵ OJ C 67 of 20.03.2009, p. 1.

⁶ OJ L 205 of 14.08.2003, p. 19.

⁷ OJ L 160 of 28.06.2003, p. 96.

⁸ <http://cor.europa.eu/en/documentation/Documents/Bureau-decision-128-2003/EN.pdf>

European Central Bank

Note: Pursuant to Article 15 TFEU, "[t]he Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to [the right of access to documents] only when exercising their administrative tasks."

Public access to documents held by the European Central Bank is governed by *Decision ECB/2004/3 of the European Central Bank of 4 March 2004 on public access to European Central Bank documents*^{9, 10}.

European External Action Service

Article 11(1) of *Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service*¹¹ states:

"The EEAS shall apply the rules laid down in Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents."

⁹ OJ L 80 of 18.03.2004, p. 42; as amended by Decision ECB/2011/6, OJ L 158 of 16.06.2011, p. 37.

¹⁰ It should be noted that Decision ECB/2004/3 is not limited to the ECB's administrative tasks.

¹¹ OJ L 201 of 03.08.2010, p. 30.

European Investment Bank

Note: Pursuant to Article 15 TFEU, "[t]he Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to [the right of access to documents] only when exercising their administrative tasks."

The European Investment Bank (EIB) adopted, on 2 February 2010, an *EIB Transparency Policy*¹² setting out specific rules for access-to-documents requests (amongst other things) and in particular stating under point ii.8:

*"The Transparency Policy shall be interpreted in accordance with the provisions of Regulation (EC) N° 1049/2001 and the Aarhus Regulation whenever they are applicable. In the event of divergence, the provisions of Regulation (EC) N° 1049/2001 and the Aarhus Regulation shall prevail, to the extent they apply to the Bank."*¹³

Further specific rules on access to documents (in particular on applicable exceptions) are contained in Part A Article 5 of the *EIB Transparency Policy*.

Additionally, the *EIB Complaint Mechanism*¹⁴ applies.

European Investment Fund

The European Investment Fund, part of the European Investment Bank (EIB) Group, is covered by the *EIB Transparency Policy* mentioned above.

¹² http://www.eib.europa.eu/attachments/strategies/transparency_policy_en.pdf.

¹³ It should be noted that the EIB Transparency Policy is not limited to the EIB's administrative tasks.

¹⁴ http://www.eib.org/attachments/strategies/complaints_mechanism_policy_en.pdf.

European Ombudsman

Article 4a of *Decision 94/262/ECSC,EC,Euratom of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties*¹⁵ states:

"The Ombudsman and his staff shall deal with requests for public access to documents, other than those referred to in Article 4(1), in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001."

European Data Protection Supervisor

Article 56 of the *Decision of the European Data Protection Supervisor of 17 December 2012 on the adoption of Rules of Procedure*¹⁶ states:

"The public shall have access to documents held by the EDPS in accordance with the principles laid down by Regulation (EC) No 1049/2001 for public access to European Parliament, Council and Commission documents."

¹⁵ OJ L 113 of 04.05.1994, p. 15; as amended in particular by Decision 2008/587/EC,Euratom, OJ L 189, 17.07.2008, p. 25.

¹⁶ http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/MembersMission/Duties/12-12-17_Rules_Procedure_EN.pdf.

Interinstitutional bodies

Computer Emergency Response Team (CERT)

The Computer Emergency Response Team was set up by a Commission decision on 11 November 2012. Although it serves all EU institutions, agencies and bodies, it therefore is to be considered part of the Commission for the purpose of applying Regulation 1049/2001.

European Personnel Selection Office (EPSO)

EPSO is administratively part of the Commission¹⁷ including for the purpose of applying Regulation 1049/2001¹⁸.

European School of Administration

The European School of Administration is attached to EPSO¹⁹. It thus is likewise considered part of the Commission for the purpose of applying Regulation 1049/2001.

¹⁷ See in particular Article 4 of *Decision 2002/620/EC of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the European Ombudsman of 25 July 2002 establishing a European Communities Personnel Selection Office*, OJ L 197 of 26.07.2002, p. 53.

¹⁸ The General Secretariat of the Commission has indicated that it regularly treats confirmatory applications against initial decisions on access to documents made by EPSO.

¹⁹ See Article 4 of *Decision 2005/118/EC of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions and the Ombudsman of 26 January 2005 setting up a European Administrative School*, OJ L 37 of 10.02.2005, p. 14.

Publications Office

Article 14(1) of *Decision 2009/496/EC, Euratom of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions of 26 June 2009 on the organisation and operation of the Publications Office of the European Union*²⁰ states:

"The Director of the Office shall take the decisions referred to in Article 7 of 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. Where applications are refused, decisions on confirmatory applications shall be taken by the Secretary-General of the Commission."

Furthermore, it is specified in Article 1(2) of the same Decision that *"[a]part from the provisions of this Decision which are specific to the interinstitutional role of the Office, the Office shall apply the administrative and financial procedures of the Commission."* and in its Article 13(2) that *"[a]ny legal action within the areas of competence of the Office shall be brought against the Commission."*

²⁰ OJ L 168 of 30.06.2009, p. 41; as amended by Decision 2012/368/EU, Euratom, OJ L 179 of 11.07.2012, p. 15.

Agencies and other EU bodies

Decentralised agencies and bodies

Agency for the Cooperation of Energy Regulators (ACER)

Article 31(1) of *Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators*²¹ states:

"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 shall apply to documents held by the Agency."

Body of European Regulators for Electronic Communications (BEREC)

Article 22(1) of *Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office*²² states:

"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 shall apply to documents held by BEREC and the Office."

²¹ OJ L 211 of 14.08.2009, p. 1.

²² OJ L 337 of 18.12.2009, p. 1.

Community Plant Variety Office (CPVO)

Article 33a of *Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights*²³ states:

"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 shall apply to documents held by the Office."

European Agency for Safety and Health at Work (EU-OSHA)

Article 6 of *Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work*²⁴ states:

"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 shall apply to documents held by the Agency."

European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)

Article 28 of *Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union*²⁵ states:

"Six months after the entry into force of this Regulation²⁶, the Agency shall be subject to Regulation (EC) No 1049/2001 when handling applications for access to documents held by it."

²³ OJ L 227 of 01.09.1994, p. 1; as amended in particular by Regulation (EC) No 1650/2003, OJ L 245, 29.09.2003, p. 28.

²⁴ OJ L 216 of 20.08.1994, p. 1; as amended in particular by Regulation (EC) No 1654/2003, OJ L 245, 29.09.2003, p. 38.

²⁵ OJ L 349, 25.11.2004, p. 1; as amended (no amendment to Article 28).

²⁶ Entered into force on 26.11.2004.

European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (IT Agency)

Article 26(1) of *Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice*²⁷ states:

"On the basis of a proposal by the Executive Director, and not later than 6 months after 1 December 2012, the Management Board shall adopt rules concerning access to the Agency's documents, in accordance with Regulation (EC) No 1049/2001."

European Asylum Support Office (EASO)

Article 42(1) of *Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office*²⁸ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Support Office."

European Aviation Safety Agency (EASA)

Article 58(1) of *Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC*²⁹ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Agency."

²⁷ OJ L 286 of 01.11.2011, p. 1.

²⁸ OJ L 132 of 29.05.2010, p. 11.

²⁹ OJ L 79 of 19.03.2008, p. 1; as amended (no amendment to Article 58).

European Centre for Disease Prevention and Control (ECDC)

Article 20(1) of *Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control*³⁰ states:

"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 shall apply to documents held by the Centre."

European Centre for the Development of Vocational Training (Cedefop)

Article 14a of *Regulation (EEC) No 337/75 of the Council of 10 February 1975 establishing a European Centre for the Development of Vocational Training*³¹ states:

"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 shall apply to documents held by the Centre."

European Chemicals Agency (ECHA)

Article 118(1)and(2) of *Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC*³² states:

³⁰ OJ L 142 of 30.04.2004, p. 1.

³¹ OJ L 39 of 13.02.1975, p. 1; as amended in particular by Regulation (EC) No 1655/2003, OJ L 245, 29.09.2003, p. 41.

³² OJ L 396 of 30.12.2006, p. 1; as amended in particular by Regulation (EC) No 1272/2008, OJ L 353, 31.12.2008, p. 1.

"1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.

2. Disclosure of the following information shall normally be deemed to undermine the protection of the commercial interests of the concerned person:

(a) details of the full composition of a mixture;

(b) without prejudice to Article 7(6) and Article 64(2), the precise use, function or application of a substance or mixture, including information about its precise use as an intermediate;

(c) the precise tonnage of the substance or mixture manufactured or placed on the market;

(d) links between a manufacturer or importer and his distributors or downstream users.

Where urgent action is essential to protect human health, safety or the environment, such as emergency situations, the Agency may disclose the information referred to in this paragraph."

European Environment Agency (EEA)

Article 6 of Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (Codified version)³³ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Agency."

European Fisheries Control Agency (EFCA)

Article 32(1) of Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy³⁴ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Agency."

³³ OJ L 126 of 21.05.2009, p. 13.

³⁴ OJ L 128 of 21.05.2005, p. 1; as amended (no amendment to Article 32).

European Food Safety Authority (EFSA)

Article 41(1) of *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety*³⁵ states:

"Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding access to European Parliament, Council and Commission documents shall apply to documents held by the Authority."

European Foundation for the Improvement of Living and Working Conditions (EUROFOUND)

Article 18a(a) of *Regulation (EEC) No 1365/75 of the Council of 26 May 1975 on the creation of a European Foundation for the improvement of living and working conditions*³⁶ states:

"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 shall apply to documents held by the Foundation."

European GNSS Agency (GSA)

Article 21(1) of *Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council*³⁷ states:

³⁵ OJ L 31 of 01.02.2002, p. 1; as amended in particular by Regulation (EC) No 1642/2003, OJ L 245, 29.09.2003, p. 4.

³⁶ OJ L 139 of 30.05.1975, p. 1; as amended in particular by Regulation (EC) No 1649/2003, OJ L 245, 29.09.2003, p. 25.

³⁷ OJ L 276 of 20.10.2010, p. 11.

"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 shall apply to documents held by the Agency."

European Institute for Gender Equality (EIGE)

Article 7(1) of *Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a European Institute for Gender Equality*³⁸ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Institute."

European Maritime Safety Agency (EMSA)

Article 4(1) of *Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency*³⁹ states:

"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 shall apply to documents held by the Agency."

³⁸ OJ L 403 of 30.12.2006, p. 9.

³⁹ OJ L 208 of 05.08.2002, p. 1; as amended in particular by Regulation (EC) No 1644/2003, OJ L 245, 29.09.2003, p. 10.

European Medicines Agency (EMA)

Article 73(1) of *Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency*⁴⁰ states:

"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 shall apply to documents held by the Agency."

European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

Article 7(1) of *Regulation (EC) No 1920/2006 of the European Parliament and of the Council of 12 December 2006 on the European Monitoring Centre for Drugs and Drug Addiction (recast)*⁴¹ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Centre."

European Network and Information Security Agency (ENISA)

Article 14(1) of *Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency*⁴² states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Agency."

⁴⁰ OJ L 136 of 30.04.2004, p. 1; as amended (no amendment to Article 73).

⁴¹ OJ L 376 of 27.12.2006, p. 1.

⁴² OJ L 77 of 13.03.2004, p. 1; as amended (no amendment to Article 14).

European Police College (CEPOL)

Article 20 of Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA⁴³ states:

"On the basis of a proposal by the Director, and not later than six months after this Decision takes effect, the Governing Board shall adopt rules for access to CEPOL documents, taking into account the principles and limits stated in 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."

Pursuant to this provision, a Decision 17/2006/GB of the Governing Board of the European Police College of 10 May 2006 adopting rules for access to documents of the European Police College⁴⁴ has been adopted.

European Police Office (EUROPOL)

Article 45 of Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol)⁴⁵ states:

"On the basis of a proposal by the Director, and not later than six months after the date of application of this Decision, the Management Board shall adopt rules concerning access to Europol documents, taking into account the principles and limits set out in 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."

Pursuant to this provision, a Decision of the Management Board of Europol of 8 July 2009 laying down the rules concerning access to Europol documents⁴⁶ has been adopted.

⁴³ OJ L 256 of 01.10.2005, p. 63.

⁴⁴ http://www.cepola.europa.eu/fileadmin/website/About_CEPOL/Governing_Board/Governing_Board_Decisions/2006/2006_17.pdf.

⁴⁵ OJ L 121 of 15.05.2009, p. 37.

⁴⁶ https://www.europol.europa.eu/sites/default/files/public_access_to_europol_documents.pdf.

European Railway Agency (ERA)

Article 37 of *Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (Agency Regulation)*⁴⁷ states:

"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 shall apply to the documents held by the Agency. "

European Training Foundation (ETF)

Article 4(4) of *Regulation (EC) No 1339/2008 of the European Parliament and of the Council of 16 December 2008 establishing a European Training Foundation (recast)*⁴⁸ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Foundation. "

European Union Agency for Fundamental Rights (FRA)

Article 17(1) of *Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights*⁴⁹ states:

"The Agency shall develop good administrative practices in order to ensure the highest possible level of transparency concerning its activities.

Regulation (EC) No 1049/2001 shall apply to documents held by the Agency. "

⁴⁷ OJ L 220 of 21.06.2004, p. 3 (corrected version); as amended (no amendment to Article 37).

⁴⁸ OJ L 354 of 31.12.2008, p. 82.

⁴⁹ OJ L 53 of 22.02.2007, p. 1.

Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

Article 123 of *Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version)*⁵⁰ states:

"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 shall apply to documents held by the Office."

The European Union's Judicial Cooperation Unit (EUROJUST)

Article 39 of *Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime*⁵¹ states:

"On the basis of a proposal by the Administrative Director, the College shall adopt rules for access to Eurojust documents, taking account of the principles and limits stated in 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."

Pursuant to this provision, a *Decision of the College of Eurojust of 13 July 2004 to adopt rules regarding public access to Eurojust documents*⁵² has been adopted.

⁵⁰ OJ L 78 of 24.03.2009, p. 1; as amended (no amendment to Article 123).

⁵¹ OJ L 63 of 06.03.2002, p. 1; as amended (no amendment to Article 39).

⁵² See "Access to Eurojust Documents" at: <http://eurojust.europa.eu/doclibrary/Eurojust-framework/ej-legal-framework/Pages/other-relevant-documents.aspx>.

Translation Centre for the Bodies of the European Union (CdT)

Article 18a(1) of *Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union*⁵³ states:

"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 shall apply to documents held by the Centre."

European Defence Agency (EDA)

Article 29 of *Council Decision 2011/411/CFSP of 12 July 2011 defining the statute, seat and operational rules of the European Defence Agency and repealing Joint Action 2004/551/CFSP*⁵⁴ states:

"The rules laid down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding access to European Parliament, Council and Commission documents shall apply to documents held by the Agency."

European Union Institute for Security Studies (EUISS)

Article 18 of *Council Joint Action 2001/554/CFSP of 20 July 2001 on the establishment of a European Union Institute for Security Studies*⁵⁵ states:

"Upon a proposal by the Director, the Board shall adopt, by 30 June 2002 rules on public access to the Institute's documents, taking into account the principles and limits laid down in 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."

⁵³ OJ L 314 of 07.12.1994, p. 1; as amended in particular by Regulation (EC) No 1645/2003, OJ L 245, 29.09.2003, p. 13.

⁵⁴ OJ L 183 of 13.07.2011, p. 16.

⁵⁵ OJ L 200 of 25.07.2001, p. 1; as amended (no amendment to Article 18).

Based on this, the EUISS Board adopted a decision on 17 July 2002 which is basically identical to Regulation 1049/2001 in terms of procedures, deadlines and applicable exceptions.

European Union Satellite Centre (EUSC)

Article 19 of *Council Joint Action 2001/555/CFSP of 20 July 2001 on the establishment of a European Union Satellite Centre*⁵⁶ states:

"Upon a proposal by the Director, the Board shall adopt, by 30 June 2002, rules on public access to the documents of the Centre, taking into account the principles and limits laid down in the Regulation 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."

Based on this, the EUSC Board adopted a decision on 16 July 2003 which is basically identical to Regulation 1049/2001 in terms of procedures, deadlines and applicable exceptions.

European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA)

Article 26(1) of *Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice*⁵⁷ states:

"On the basis of a proposal by the Executive Director, and not later than 6 months after 1 December 2012, the Management Board shall adopt rules concerning access to the Agency's documents, in accordance with Regulation (EC) No 1049/2001."

⁵⁶ OJ L 200 of 25.07.2001, p. 5; as amended (no amendment to Article 19).

⁵⁷ OJ L 286 of 01.11.2011, p. 1; as amended (no amendment to Article 26).

Financial Supervisory Bodies

European Banking Authority (EBA)

Article 72(1) of *Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC*⁵⁸ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Authority."

European Securities and Markets Authority (ESMA)

Article 72(1) of *Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC*⁵⁹ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Authority."

European Insurance and Occupational Pensions Authority (EIOPA)

Article 72(1) of *Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC*⁶⁰ states:

"Regulation (EC) No 1049/2001 shall apply to documents held by the Authority."

⁵⁸ OJ L 331 of 15.12.2010, p. 12.

⁵⁹ OJ L 331 of 15.12.2010, p. 84; as amended (no amendment to Article 72).

⁶⁰ OJ L 331 of 15.12.2010, p. 48.

European Systemic Risk Board (ESRB)

The European Systemic Risk Board (ESRB) was set up by *Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board*⁶¹.

No provision on access to documents is contained in that regulation.

However, *Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board*⁶² confers the ESRB's secretarial tasks to the European Central Bank (see Article 2 of that regulation). Article 7(1) of that regulation states:

*"The Secretariat shall ensure the application of Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3)"*⁶³.

Accordingly, the ESRB is subject to the access-to-documents regime of the European Central Bank. In addition, a *Decision ESRB/2011/5 of the European Systemic Risk Board of 3 June 2011 on public access to European Systemic Risk Board documents*⁶⁴ has been adopted.

Euratom agencies and bodies

Euratom Supply Agency (ESA)

The Euratom Supply Agency is administratively part of the Commission and acts under its supervision⁶⁵. Accordingly it is deemed part of the Commission for the purposes of Regulation 1049/2001⁶⁶.

⁶¹ OJ L 331 of 15.12.2010, p. 1.

⁶² OJ L 331 of 15.12.2010, p. 162.

⁶³ See footnote 9 above.

⁶⁴ OJ C 176 of 16.06.2011, p. 3.

⁶⁵ See in particular Article 5 of the Annex to *Council Decision 2008/114/EC, Euratom of 12 February 2008 establishing Statutes for the Euratom Supply Agency*, OJ L 41 of 15.02.2008, p. 15.

⁶⁶ Both the services of the Euratom Supply Agency and the General Secretariat of the Commission

It should be noted that Regulation 1049/2001 being an EC Regulation, it does not formally apply to Euratom matters. However, the Commission is called upon by recital 5 of that regulation and by Declaration No 41 attached to the Final Act of the Treaty of Amsterdam to draw guidance from Regulation 1049/2001 when acting in pursuance of the Euratom Treaty.

Since the entry into force of the Lisbon Treaty, Article 15 TFEU is applicable to Euratom pursuant to Article 106a of the Euratom Treaty.

European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy)⁶⁷

Public access to documents held by the European Joint Undertaking for ITER and the Development of Fusion Energy is governed by a *Decision of the Governing Board of the European Joint Undertaking for ITER and the Development of Fusion Energy of 7 July 2007 concerning the transparency and public access to the documents of the Joint Undertaking*⁶⁸.

have indicated that confirmatory applications against initial decisions on access to documents made by the Euratom Supply Agency must be treated by the General Secretariat of the Commission.

⁶⁷ It should be noted that this entity is distinct from the ITER Organisation which is an international organisation to which Euratom is a party but which is not subject to EU/Euratom transparency rules.

⁶⁸ http://fusionforenergy.europa.eu/downloads/aboutf4e/decisions/Decision_2.pdf.

Executive agencies

Executive agencies are governed by *Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes*⁶⁹; Article 23(1) of that Regulation states:

"Executive agencies shall be subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 on public access to European Parliament, Council and Commission documents when it receives a request for access to a document in its possession. The Steering Committee shall adopt any special rules needed to implement these provisions no later than six months after the setting-up of the executive agency."

This regulation covers the following agencies:

Education, Audiovisual and Culture Executive Agency (EACEA)

European Research Council Executive Agency (ERC Executive Agency)

Executive Agency for Competitiveness and Innovation (EACI)

Executive Agency for Health and Consumers (EAHC)

Research Executive Agency (REA)

Trans-European Transport Network Executive Agency (TEN-T EA)

The European Institute of Innovation and Technology (EIT)

Article 17(1) of *Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology*⁷⁰ states:

"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 shall apply to the documents held by the EIT [...]"

⁶⁹ OJ L 11 of 16.01.2003, p. 1.

⁷⁰ OJ L 97 of 09.04.2008, p. 1.