

ENGLISH TRANSLATION
(OR. fr)

RULES FOR PUBLIC ACCESS TO DOCUMENTS

OF THE EUROPEAN UNION INSTITUTE FOR SECURITY STUDIES

The Board of the European Union Institute for Security Studies

Having regard to the Council Joint Action of 20 July 2001 on the establishment of a European Union Institute for Security Studies (2001/554/CFSP) ¹, and in particular Article 18 thereof,

Having regard to the Director's proposal,

Whereas :

- The European Union agencies should adopt internal rules for public access to their documents which take account of the principles and limits defined by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 ² regarding public access to European Parliament, Council and Commission documents.
- The necessary measures should be taken to inform the public and to facilitate access by citizens to the documents of the Institute for Security Studies.

¹ OJ L 200, 25.7.2001, p. 1.

² OJ L 145, 30.5.2001, p. 43.

In accordance with Article 2 of Council Joint Action 2001/554/CFSP of 20 July 2001 on the establishment of an Institute for Security Studies, the Institute's output is to be distributed as broadly as possible, except as regards confidential information, for which the Council's security regulations as set out in Council Decision 2001/264/EC of 19 March 2001¹ apply,

Has adopted the following rules:

Article I - Purpose

The purpose of these rules is :

- (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to documents of the European Union Institute for Security Studies (hereinafter referred to as "the Agency");
- (b) to guarantee the easiest possible exercise of this right;
- (c) to promote good administrative practice on access to documents.

Article II - Beneficiaries and scope

- (a) Any natural or legal person has a right of access to documents of the Agency, including documents of third parties in its possession subject to the principles, conditions, limits and exceptions defined in this Regulation.
- (b) The Institute shall not hold classified documents within the meaning of the Council Decision of 19 March 2001 adopting the Council's security regulations. This principle shall be subject to review by the Board, if required.

¹ OJ L 101, 11.4.2001, p. 1.

Article III - Document/Definition

For the purpose of these rules, "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 activities of the Agency.

Article IV - Applications

Applications for access to a document shall be sent to the Head of Administration of the Institute by post, by e- mail to the following address: institut@iss-eu.org or by fax to the following number: (+33) (0) 1 56 89 19 33. Decisions on applications for access shall be taken by the Agency's Administration within 15 working days of the date of receipt of the application.

Article V — Procedures for access following an application

The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference.

The cost of producing and sending copies may be charged to the applicant. This charge may not exceed the actual cost of producing and sending the copies.

Consultation on the spot, copies of fewer than five pages and consultation in electronic form shall be free of charge.

Article VI - Exceptions

- (a) The Agency shall refuse access to a document where disclosure would undermine the protection of privacy and the integrity of an individual.
- (b) The Agency shall refuse access to a document where disclosure would undermine:

- (i) the public interest as regards public security, defence and military matters, international relations or the financial, monetary or economic policy of the European Union, the European Community or of the Member States,
- (ii) the commercial interests of a natural or legal person, including intellectual property,
- (iii) court proceedings and legal advice,
- (iv) inspections, investigations and audits,

unless there is an overriding public interest in disclosure of the document referred to in (ii), (iii) and (iv).

- (c) Access to a document, drawn up by the Agency for internal use or held by the Agency, which relates to a matter where a decision has not yet been taken by the Agency, shall be refused if disclosure of the document would seriously undermine the Agency's decision-making process, unless there is an overriding public interest in disclosure of the said document.
- (d) Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the Council of the European Union shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the Council's decision-making process, unless there is an overriding public interest in disclosure.
- (e) As regards third-party documents, the Agency shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document must or must not be disclosed.

Article VII - Confirmatory application

- (a) Any decision to refuse access to a document shall give the applicant the right to submit a confirmatory application. This application shall be sent to the Director of the Agency.

- (b) Within 15 working days of registration of such an application, the Director shall either grant access to the document requested or, in a written reply, state the reasons for the total or partial refusal.

Article VIII - Register

As from 1 January 2003 the Agency shall provide a register of its documents accessible in electronic form.

References to documents shall be recorded in the register without delay.

Article IX - Reproduction of documents

These rules shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

Article X - Entry into force

These rules shall enter into force on the day of their adoption.