EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS

THE EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS DECISION

of 21 November 1997

on code of conduct concerning public access to documents of the European Foundation for the Improvement of Living and Working Conditions

(1999/738/EC)

THE ADMINISTRATIVE BOARD OF THE EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS,

Having regard to Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of the European Foundation for the Improvement of Living and Working Conditions ([1]), as amended by Regulation (EEC) No 1947/93 ([2]),

Having regard to Council Regulation (EEC) No 1417/76 of 1 June 1976 on financial provisions applying to the European Foundation for the Improvement of Living and Working Conditions ([3]), as last amended by Regulation (EEC) No 1949/93 ([4]),

Having regard to Commission Decision of 8 February 1994 on public access to Commission documents,

HAS DECIDED to adopt the following code of conduct concerning public access to Foundation documents.

General principle

The public will have the widest possible access to documents held by the Foundation.

'Document' means any written text, whatever its medium, which contains existing data and is held by the Foundation.

Processing of initial applications

An application for access to a document will have to be made in writing, in a sufficiently precise manner; it will have to contain information that will enable the document or documents concerned to be identified. Where necessary, the Foundation will ask the applicant for further details.

Where the document held by the Foundation was written by a natural or legal person, a Member State, another Community institution or body of any other national or international body, the application must be sent direct to the author.

In consultation with the applicants, the Foundation will find a fair solution to comply with repeat applications and/or those which relate to very large documents.

The applicant will have access to documents either by consulting them on the spot or by having a copy sent at his own expense.

A fee of ECU 10, plus ECU 0,036 per sheet of paper, may be charged for copies of printed documents exceeding 30 pages. Charges for information in other formats shall be set on a case-by-case basis but shall not exceed what is reasonable.

The Foundation will be able to stipulate that a person to whom a document is released will not be allowed to reproduce or circulate the said document for commercial purposes through direct sale without its prior authorisation.

([1]) OJ L 139, 30.5.1975, p. 1.
([2]) OJ L 181, 23.7.1993, p. 13.
([3]) OJ L 164, 24.6.1976, p. 16.
([4]) OJ L 181, 23.7.1993, p. 26.

Within one month the Foundation will inform the applicant either that his application has been approved or that it is intended to reject it. Failure to reply within one month of the application being made will constitute an intention to refuse access.

Processing of confirmatory applications

Where the Foundation rejects an application, it will inform the applicant thereof and tell him that he has one month to make a confirmatory application to the Foundation for that position to be reconsidered, failing which he will be deemed to have withdrawn his original application.

If a confirmatory application is submitted, and if the Foundation decides to refuse to release the document, that decision, which must be made within a month of submission of the confirmatory application, will be notified in writing to the applicant as soon as possible. Failure to reply within one month of a confirmatory application being made will constitute a refusal. The grounds for the decision must be given, and the decision will indicate the means of redress that are available, i.e. judicial proceedings and complaints to the Ombudsman under the conditions specified in, respectively, Articles 173 and 138e of the Treaty establishing the European Community.

Exceptions

The Foundation will refuse access to any document where disclosure could undermine:

— the protection of the public interest (public security), international relations, monetary stability, court proceedings, inspections and investigations,

— the protection of the individual and of privacy,

— the protection of commercial and industrial secrecy,

— the protection of the Community's financial interests,

— the protection of confidentiality as requested by the natural or legal persons that supplied the information or as required by the legislation of the Member State that supplied the information.

Access may also be refused in order to protect the Foundation's interest in the confidentiality of its proceedings.

Implementation

The Foundation will take steps to implement these principles before 1 April 1998.

Review

The Foundation undertakes to review this code of conduct after two years of operation, having regard to reports drawn up by the Secretaries-General of the Council and the Commission on the codes of conduct of those bodies.

Done at Dublin, 21 November 1997.

For the Administrative Board

Marjaana VALKONEN

The Chairperson