

## COMMISSION DECISION

of 30 April 2008

**amending its Rules of Procedure as regards detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institution and bodies**

(2008/401/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

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

Whereas:

(1) Regulation (EC) No 1367/2006 of the European Parliament and of the Council<sup>(1)</sup> makes provision for the application of the Aarhus Convention to Community institutions and bodies, as regards access to environmental information, public participation concerning plans and programmes relating to the environment and internal review and access to justice.

(2) In accordance with Article 13 of Regulation (EC) No 1367/2006, where necessary, Community institutions and bodies shall adapt their rules of procedure to the provisions of that Regulation.

(3) Pursuant to Article 7 of Regulation (EC) No 1367/2006, a Community institution or body receiving a request for access to environmental information which it does not hold must, within 15 working days at the latest, inform the applicant of the institution, body or public authority to which it believes the request can be submitted or transfer the request to the institution, body or public authority holding the requested information. There is no such provision 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<sup>(2)</sup> or in the detailed rules for the application of this Regulation to the Commission laid down in its Rules of Procedure<sup>(3)</sup> as amended by Commission Decision 2001/937/EC, ECSC, Euratom<sup>(4)</sup>. Consequently, a specific provision should be added to the Rules of Procedure as regards requests for access to environmental information which is not held by the Commission.

(4) As concerns public participation, Article 9 of Regulation (EC) No 1367/2006 requires Community institutions and bodies to provide, through appropriate provisions, early and effective opportunities for the public to participate during the preparation, modification or review of plans and programmes relating to the environment when all options are still open. Modalities for such public participation are specified in paragraphs 3, 4 and 5 of that Article. For the Commission, provisions are laid down in a general way in its Communication 'General principles and minimum standards for consultation of interested parties'<sup>(5)</sup>. These should be applied by all Commission departments as regards the preparation, modification or review of plans and programmes relating to the environment.

(5) Title IV of Regulation (EC) No 1367/2006 sets out provisions on internal review of administrative acts and omissions, the implementation of which requires the adoption of detailed rules by the Commission.

(6) In order to give effect to Article 1(2) of Regulation (EC) No 1367/2006, a practical guide should inform the public of their rights under that Regulation.

(7) The Rules of Procedure should be amended accordingly.

(8) Pursuant to Article 13 of Regulation (EC) No 1367/2006, this Decision should apply from 28 June 2007,

<sup>(2)</sup> OJ L 145, 31.5.2001, p. 43.

<sup>(3)</sup> OJ L 308, 8.12.2000, p. 26.

<sup>(4)</sup> OJ L 345, 29.12.2001, p. 94.

<sup>(5)</sup> COM(2002) 704 final of 11.12.2002.

<sup>(1)</sup> OJ L 264, 25.9.2006, p. 13.

HAS DECIDED AS FOLLOWS:

*Article 1*

The text set out in the Annex to this Decision is added to the Rules of Procedure.

*Article 2*

**Date of application**

This Decision shall apply from 28 June 2007.

Done at Brussels, 30 April 2008.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

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## ANNEX

**Detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies***Article 1***Access to environmental information**

The time-limit of 15 working days referred to in Article 7 of Regulation (EC) No 1367/2006 shall commence on the date of registration of the request by the responsible Commission department.

*Article 2***Public participation**

For the purposes of implementing Article 9(1) of Regulation (EC) No 1367/2006 the Commission shall ensure public participation in accordance with the Communication 'General principles and minimum standards for consultation of interested parties by the Commission' (\*).

*Article 3***Requests for internal review**

Requests for internal review of an administrative act or relating to an administrative omission shall be sent by mail, fax or e-mail to the department responsible for the application of the provision on the basis of which the administrative act was adopted, or in respect of which the administrative omission is alleged.

Contact details to that effect shall be made known to the public by all appropriate means.

Where a request is sent to another department than that responsible for the review, that department shall forward the request to the one responsible.

In any case, where the department responsible for the review is not Directorate-General 'Environment', it shall inform the latter of the request being made.

*Article 4***Decisions concerning the admissibility of requests for internal review**

1. As soon as the request for internal review is registered, an acknowledgement of receipt shall be sent to the non-governmental organisation author of the request, where appropriate by electronic means.
2. The Commission department concerned shall determine whether the non-governmental organisation is entitled to make a request for internal review in accordance with Commission Decision 2008/50/EC (\*\*).
3. In accordance with Article 14 of the Rules of Procedure, the power to take decisions on the admissibility of a request for internal review is delegated to the Director-General or the head of department concerned.

Decisions on the admissibility of the request shall cover any decisions on the entitlement, pursuant to paragraph 2 of this Article, of the non-governmental organisation author of the request, the timely submission of the request under the second subparagraph of Article 10(1) of Regulation (EC) No 1367/2006, and on the indication and substantiation of the grounds on which the request is made, as required in Article 1(2) and (3) of Decision 2008/50/EC.

4. Where the Director-General or the head of department referred to in paragraph 3 finds that the request for internal review is inadmissible in full or in part, the non-governmental organisation author of the request shall be informed in writing, if appropriate by electronic means, stating the reasons.

(\*) COM(2002) 704 final.

(\*\*) OJ L 13, 16.1.2008, p. 24.

*Article 5***Decisions concerning the substance of requests for internal review**

1. Any decision whereby it is determined that the administrative act whose review is sought, or the alleged administrative omission, is in breach of environmental law shall be taken by the Commission.

2. In accordance with Article 13 of the Rules of Procedure, the Member of the Commission responsible for the application of the provisions on the basis of which the administrative act concerned was adopted or to which the alleged administrative omission relates shall be empowered to decide that the administrative act whose review is sought, or the alleged administrative omission, is not in breach of environmental law.

Sub-delegation of powers conferred under the first subparagraph shall be prohibited.

3. The non-governmental organisation author of the request shall be informed of the outcome of the review in writing, if appropriate by electronic means, stating the reasons.

*Article 6***Remedies**

All replies informing the non-governmental organisation that its request is either inadmissible, in full or part, or that the administrative act whose review is sought, or the alleged administrative omission, is not in breach of environmental law shall apprise the non-governmental organisation of the remedies open to it, namely instituting court proceedings against the Commission, or making a complaint to the Ombudsman, or both, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

*Article 7***Information of the public**

A practical guide shall provide to the public appropriate information about their rights under Regulation (EC) No 1367/2006.

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