



**GOVERNING BOARD OF THE GLOBAL HEALTH EDCTP3 JOINT UNDERTAKING  
DECISION N° GB/08/2024**

**On the implementation of Regulation (EC) No 1049/2001 of the European Parliament and the  
Council regarding public access to documents**

THE GOVERNING BOARD OF THE GLOBAL HEALTH EDCTP3 JOINT UNDERTAKING (hereafter “Global Health EDCTP3 JU”),

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014, and in particular articles 16 (1), (2), (3), 34 and 107 thereof;

Having regard to 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;

Having regard to the Rules of Procedure of the Governing Board of the Global Health EDCTP3 JU, and in particular Article 10 thereof,

WHEREAS

- (1) In accordance with Article 34 of Council Regulation No 2021/2085, Regulation 1049/2001 should apply to documents held by the Global Health EDCTP3 JU;
- (2) It is considered that the widest possible access to documents should be ensured, subject to the principles, conditions and limits defined in the Regulation (EC) No 1049/2001.

HAS DECIDED AS FOLLOWS:

***Article 1 – Purpose***

The purpose of this decision is to lay down the practical arrangements for implementing Regulation (EC) No 1049/2001, as regards the Global Health EDCTP3 JU’s documents.

***Article 2 - Beneficiaries***

1. Citizens of the European Union and natural or legal persons residing or having their registered office in a Member State shall exercise their right of access to the Global Health EDCTP3 JU's documents pursuant to Article 2(1) of Regulation (EC) No 1049/2001. This right of access concerns documents drawn up or received by the Global Health EDCTP3 JU and in its possession.
2. Pursuant to Article 2(2) of Regulation (EC) No 1049/2001, citizens of third countries not residing in a Member State and legal persons not having their registered office in one of the Member States shall enjoy the right of access to Global Health EDCTP3 JU documents on the same terms as the beneficiaries referred to in Article 2(1) of Regulation (EC) No 1049/2001.

### ***Article 3 – Definitions***

For the purpose of this Decision:

- (a) "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 and decisions falling within the Global Health EDCTP3 JU's sphere of responsibility;
- (b) "third party" shall mean any natural or legal person, or any entity outside the Global Health EDCTP3 JU, including its Members, EU or non-EU institutions and bodies and third countries.

### ***Article 4 - Access applications***

1. Applications for access to a document shall be sent to the Global Health EDCTP3 JU by electronic or regular mail, preferably in English and in sufficiently precise manner to enable the Global Health EDCTP3 JU to identify the document.
2. The Global Health EDCTP3 JU shall respond to initial and confirmatory applications for access within fifteen working days from the date of registration of the application, by regular or electronic mail.
3. In the case of complex or bulky applications, the deadline may be extended by fifteen working days. Reasons must be given for any extension of the deadline and any such extension must be notified to the applicant prior to the expiry of the original deadline.
4. If an application is imprecise, as referred to in Article 6(2) of Regulation (EC) No 1049/2001, the Global Health EDCTP3 JU shall invite the applicant to provide additional information to clarify the application. The deadline for the Global Health EDCTP3 JU to respond to the application shall be fifteen working days from receiving such further information as requested and as necessary to identify the document in question.
5. Any decision to deny access to a document or part of a document shall state the reason for the refusal based on one of the exceptions listed in Article 4 of Regulation (EC) No 1049/2001. The applicant shall be informed of the remedies available to him/her.
6. Pursuant to Article 17(1) of the Regulation 1049/2001, the Global Health EDCTP3 JU's Annual Activity Report shall include the number of cases in which the Global Health EDCTP3 JU refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.

### ***Article 5 – Processing of initial applications***

1. Where the document requested is directly accessible as defined in Article 12 of Regulation 1049/2001 and in Article 11 of this Decision, the applicant shall be notified as such together with details of how to retrieve the document in question.
2. Applications relating to documents which are not directly accessible shall be acknowledged by the Global Health EDCTP3 JU pending an answer unless this answer can be sent by regular or electronic mail.
3. The acknowledgement of receipt and the answer shall be sent to the applicant in writing, where appropriate by electronic means.
4. The Global Health EDCTP3 JU shall inform the applicant of its decision with respect to the initial application.
5. In the event of a total or partial refusal, the applicant shall be informed of his/her right to submit, within fifteen working days from receipt of the answer, a confirmatory application to the Executive Director asking him/her to reconsider this refusal.
6. Failure of the Global Health EDCTP3 JU to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application.

#### ***Article 6 - Processing of confirmatory applications***

1. The Executive Director of the Global Health EDCTP3 JU shall take decisions regarding confirmatory applications.
2. The decision shall be notified to the applicant in writing, where appropriate by electronic means, and shall inform him/her, if appropriate of his/her right to bring an action before the General Court of the European Union or to lodge a complaint with the European Ombudsman.
3. Pursuant to Article 228(1) of the Treaty on the Functioning of the European Union, citizens of third countries not residing in Member States and legal persons not having their registered office in one of the Member States shall not have the option of laying a complaint before the European Ombudsman. If the Global Health EDCTP3 JU wholly or partially refuses them the access to a document after a confirmatory application, they may bring an action before the General Court of the European Union in accordance with the fourth paragraph of Article 263 of the Treaty on the Functioning of the European Union.

#### ***Article 7 - Consultations***

1. Where the Global Health EDCTP3 JU receives an application for access to a document which it holds but which originates from a third party, the Global Health EDCTP3 JU shall in the first instance check whether one of the exceptions, especially commercial interests and intellectual property of a natural or legal person, provided for under Article 4 of Regulation (EC) No 1049/2001 applies.
2. If after the examination the Global Health EDCTP3 JU considers that access to the document must be refused under one of the exceptions provided for by Article 4 of Regulation 1049/2001, it shall refuse such a request and a negative answer shall be sent to the applicant without the need to consult the third party.
3. The Global Health EDCTP3 JU shall, however, only be permitted to grant the application without consulting the third party where:
  - (a) the document requested has already been publicly disclosed either by the third party or under Regulation 1049/2001 or similar provisions;
  - (b) the Global Health EDCTP3 JU has a contractual right to disclose the document.
4. The third party shall have a deadline for reply which shall be no shorter than five working days but must enable the Global Health EDCTP3 JU to abide by its own deadlines for reply. In the absence of an answer within the

prescribed period, or if the third party is untraceable or not identifiable, the Global Health EDCTP3 JU shall decide in accordance with the rules on exceptions in Article 4 of Regulation (EC) No 1049/2001, taking into account the legitimate interests of the third party on the basis of the information at its disposal.

5. If the Global Health EDCTP3 JU intends to give access to a document against the explicit opinion of the third party, it shall inform him/her of its intention to disclose the document after a ten-working day period and shall draw his/her attention to the remedies available to him/her to oppose disclosure.

#### ***Article 8 - Classification of documents***

1. The Global Health EDCTP3 JU's documents will be classified in accordance with the classification laid down in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information.
2. The classification of a document of the Global Health EDCTP3 JU shall be decided by the Executive Director. When the classification raises questions of principle and/or the document is related to the work of one of the Joint Undertaking's bodies, the Executive Director may consult the relevant Chairperson before taking his/her decision.
3. Applications for access to classified documents of the Global Health EDCTP3 JU will be handled by the Executive Director, where appropriate in consultation with the relevant Chairperson, as referred in paragraph 2.
4. If access to a classified document of the Global Health EDCTP3 JU is to be given, it shall first be declassified by a decision of the Executive Director.

#### ***Article 9 - Exercise of the right of access***

1. Documents shall be sent by regular or electronic mail. If documents are voluminous or difficult to handle, the applicant may be invited to consult the documents at the premises of the Global Health EDCTP3 JU. This consultation shall be free of charge.
2. If the document has been published, the answer shall consist of the publication references or, for documents available on the Global Health EDCTP3 JU's website or other websites, the appropriate Uniform Resources Locator (URL).
3. If the volume of the documents requested exceeds twenty pages, the applicant may be charged a fee of EUR 0,10 per page, plus carriage costs. The charges for other media shall be decided on a case-by-case basis but shall not exceed a reasonable amount.

#### ***Article 10 - Measures facilitating access to the documents***

1. In order to make the right of access provided for in the Regulation 1049/2001 effective, the Global Health EDCTP3 JU shall provide access to a register of documents. The register shall be accessible in electronic form.
2. The register shall contain the title of the document (in the languages in which it is available), its serial number, the subject matter and/or a short description of the contents, an indication of the author, the date of its creation or adoption and the date of entry in the register.
3. For documents which are directly accessible, the register shall include a hyperlink to the document in question.
4. A help page shall be provided to assist the public in finding specific documents.
5. For documents which are directly accessible, the register shall provide details of how to request access.

***Article 11 - Documents directly accessible to the public***

1. The following documents shall be automatically provided on request and, as far as possible, made directly accessible by electronic means:
  - (a) all adopted EU legislation related to the Global Health EDCTP3 JU's objectives;
  - (b) a publishable version of the Annual Work Programme and the Annual Activity Report;
  - (c) the annual budget of the Global Health EDCTP3 JU;
  - (d) all press releases or other publications made by Global Health EDCTP3 JU.
  
2. 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/her consent;
  - (b) documents already disclosed following a previous application.
  
3. The Executive Director may decide to expand the list of documents in paragraph 2 as appropriate.

***Article 12 - Rights relevant to personal data***

This Decision shall be without prejudice to the rights of data subjects established by Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

***Article 13 - Reproduction of documents***

This Decision 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 14 – Winding Up***

Prior to the winding up of the Global Health EDCTP3 JU, the Governing Board shall in due time decide on the transfer of all information held by the Global Health EDCTP3 JU and ensure that such information continues to be held in confidence and be dealt with in accordance with the requirements of Council Regulation No 2021/2085 and where relevant applicable grant agreements.

**Article 15 - Entry into force**

1. This Decision shall enter into force on the day of its adoption of the Governing Board.

Done at Brussels, 15 March 2024.

*For the Global Health EDCTP3 Joint Undertaking Governing Board*

Irene Norstedt

*Chairperson of the Governing Board*