

Public access to European Parliament, Council and Commission documents

2008/0090(COD) - 30/11/2011 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report drafted by Michael CASHMAN (S&D, UK) on the proposal for a regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast).

The committee recommends that the European Parliaments position adopted at first reading under the ordinary legislative procedure should be to amend the Commission proposal.

Beneficiaries: any natural or legal person or any association of legal or natural persons shall have a right of access to documents of the institutions, bodies, offices and agencies, subject to the principles, conditions and limits defined in this Regulation.

Scope: this Regulation shall apply to all documents held by a Union institution, body, office and agency, that is to say documents drawn up or received by it and in its possession, in all areas of activity of the Union. This Regulation shall apply to the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, only in the course of the performance of their administrative tasks.

Access to documents: Members consider that full, direct and timely public access should be granted in principle to documents relating to legislative acts as well as delegated and implementing acts of general scope, as the legislative procedure has to be open and visible as much as possible.

- Preparatory legislative documents and all related information on the different stages of the interinstitutional procedure, such as Council working group documents, names and positions of Member States delegations acting as Members of the Council and first-reading trilogue documents, should in principle be made immediately and directly accessible to the public on the Internet.
- Documents relating to non-legislative procedures, such as binding measures or measures dealing with internal organisation, administrative or budgetary acts, or of a political nature (such as conclusions, recommendations or resolutions) should be easily and as far as possible directly accessible in compliance with the principle of good administration.
- For each category of document, the institution, body, office or agency responsible should make accessible to citizens the workflow of the internal procedures to be followed, which organisational units would be in charge, as well their remit, the deadlines set and the office to be contacted. The institutions, bodies, offices and agencies should duly take into account the recommendations of the European Ombudsman.

Exceptions: all documents of the institutions should be accessible to the public. Exceptions to this principle should be made to protect certain public and private interests, but such exceptions should be governed by a transparent system of rules and procedures, and the overall goal should be the implementation of citizens' fundamental right of access.

Access to documents drawn up by an institution for internal use or received by an institution relating to a matter where the decision has not yet been taken by that institution shall be refused only if their disclosure would, due to their content and the objective circumstances of the situation, manifestly and seriously undermine the decision-making process.

Member States should not have a veto right regarding documents originating from them as the final decision lies with the Institutions.

Confirmatory application: a confirmatory application shall be handled promptly. Within a maximum of 15 working days (as opposed to 30) from registration of such an application, the institution, body, office or agency shall either grant access to the document requested and provide within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution, body, office or agency shall inform the applicant of the remedies open to him or her.

Privileged access: an institution, body, office or agency may grant privileged access to documents for the purpose of research. If privileged access is granted, the information shall only be released subject to appropriate restrictions regarding its use. The idea is to give primarily academics an opportunity to have access to information which would otherwise be inaccessible, but that they must accept appropriate restrictions as to how the information can be used.

Better law-making practices, drafting models and techniques shared by the institutions, bodies, offices and agencies should be agreed by the European Parliament, the Council and the Commission in accordance with Article 295 TFEU and with this Regulation and published in the Official Journal of the European Union in order to improve the principle of transparency by design and that of legal clarity of EU documents.

Classified documents: this Regulation should provide a framework procedure for the registration, classification, access and archiving of classified documents.

Register: in order to improve openness and transparency in the legislative process, an interinstitutional register of lobbyists and other interested parties should be agreed by the institutions, bodies, offices and agencies.

Charter of Fundamental Rights: due to the fact that this Regulation directly implements Article 15 TFEU as well as Article 42 of the Charter, the defined principles and limits for access to documents should prevail over any rules, measures or practices adopted under a different legal basis by an institution, body, office or agency and introducing additional or stricter exceptions than the ones provided in this Regulation.