

Public access to European Parliament, Council and Commission documents

2008/0090(COD) - 15/12/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 394 votes to 197 with 35 abstentions, a legislative resolution 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).

Parliaments position adopted in first reading amended the Commission proposal as follows:

Purpose: the regulation must, amongst other things, aim to promote transparent and good administrative practice in order to improve access to documents, and in particular the overall goals of greater transparency, accountability, and democracy.

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 the Regulation.

Scope: the 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.

Definition of document: Members specify that document shall mean any data content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter falling within the sphere of responsibility of a Union institution, body, office or agency.

The content of a document shall be available without discrimination on the grounds of visual impairment, working language or operating system platform. Institutions shall provide for actual access by an applicant to the content of documents without technical discrimination.

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.
- Documents relating to the European Union budget, its implementation and beneficiaries of Union funds and grants shall be public and accessible to citizens.

Classified documents: Parliament proposes new rules for the procedure to be followed for the classification (EU top secret, EU secret, EU confidential and EU restricted), and declassification of documents. An institution shall classify a document where its disclosure would undermine the protection of the essential interests of the Union or of one or more of the Member States, notably in public security, defence and military matters.

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.

Overriding public interest: the exceptions listed in the text do not apply when an overriding public interest justifies disclosure of the document. When balancing the public interest in disclosure, an overriding public interest in disclosure shall be deemed to exist where the document requested relates to the protection of fundamental rights and the rule of law, sound management of public funds, or the right to live in a healthy environment, including emissions into the environment.

Personal data shall not be disclosed if such disclosure would harm the privacy or the integrity of the person concerned. Personal data shall nevertheless be disclosed if an overriding public interest requires disclosure.

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

Where an application concerns a document originating from a Member State, other than documents transmitted in the framework of procedures leading to a legislative act or a delegated or implementing act of general application, the authorities of that Member State shall be consulted where there is any doubt as to whether the document is covered by one of the exceptions

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.

Information Officer: each general administrative unit within each institution, body, office and agency shall appoint an Information Officer who shall be responsible for ensuring compliance with this Regulation and good administrative practice within that administrative unit. The Information Officer shall determine which information it is expedient to give the public and shall assess whether the services within his or her general administrative unit follow good practice.

Principle of good and open administration: in the transitional period before the adoption of the rules as envisaged by Article 298 TFEU and based on the requirements of Article 41 of the Charter, the institutions, bodies, offices and agencies shall adopt and publish general guidelines on the scope of the obligations of confidentiality and professional secrecy, the obligations arising from sound and transparent administration and the protection of personal data in accordance with Regulation (EC) No 45/2001.

The institutions, bodies, offices and agencies shall inform citizens, in a fair and transparent way, about their organisational chart by indicating the remit of their internal units, the internal workflow and indicative deadlines of the procedures falling within their remit, and the services to which citizens may refer to obtain support, information or administrative redress.

Report: 2 years at the latest after entry into force of the Regulation, the Commission shall publish a report on the implementation of this Regulation and shall make recommendations, including, if appropriate, proposals for the revision of this Regulation.