

## MEMORANDUM TO THE COMMISSION

Citizens and residents of the European Union have a right of access to documents of the European Parliament, the Council and the Commission, based on the Treaty establishing the European Community, as it was amended by the Treaty of Amsterdam. This right has been given effect through Regulation (EC) No 1049/2001 adopted in co-decision on 30 May 2001. This Regulation replaced a common Code of Conduct on Access to Council and Commission documents, adopted by the Commission

In January 2004, the Commission published a report with a first assessment of this new Regulation. It concluded that there was no need for amending the Regulation in the short term.

The “European Transparency Initiative”, which the Commission decided to launch on 9 November 2005, included a review of the Regulation.

The European Parliament on its side has asked the Commission to come forward with proposals for amending the Regulation in a Resolution adopted on 4 April 2006.

The new Regulation applying the Convention of Århus to the institutions and bodies of the European Community, which was adopted on 6 September 2006, interacts with Regulation 1049/2001 as regards access to documents containing environmental information.

Finally, the European Courts have handed down judgments on key provisions of the Regulation, which could be codified into the legal text, e.g.:

- the relation between the right of access to documents and the right of individuals to protection of their personal data;
- the right of Member States to oppose disclosure of documents originating from them;
- access to written submissions to the Courts before and after the oral hearing.

Against this background, the Commission has published, on 18 April 2007, a Green Paper on the review of the Regulation. On the basis of this Green Paper, a public consultation took place until 31 July 2007. A total of eighty-one contributions were received from civil society (30), public authorities (25), the corporate world (14) and individual citizens (12). A report on the outcome of the consultation was published on 16 January 2008<sup>1</sup>.

It is proposed to amend the Regulation, taking into account the case law, the Resolution of the European Parliament and the outcome of the public consultation. The intent is to enhance transparency, while at the same time improving and clarifying the legal provisions. This will not only be reflected in the legal text itself but also in the implementation of the Regulation, in particular as regards a more active dissemination policy.

The Commission is invited to approve the attached proposal for a Regulation amending 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.

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<sup>1</sup> Commission staff working document SEC(2008) 29/2