



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From: Presidency
To: Working Party on Information

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No. Cion prop.: 8261/1/11 REV1

Subject: Proposal for a Regulation of the European Parliament and of the Council
 amending Regulation (EC) No 1049/2001 regarding public access to European
 Parliament, Council and Commission documents

1. Delegations will find attached the compromise text of the above proposal ¹ as agreed at the meeting of the Working Party on Information on 16 September 2011.
2. All changes to the text of the Commission proposal are marked in **bold** or by (...) for deleted text.

¹ Document 8261/1/11 REV1; COM(2011) 137 final.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 15(3) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The general principles and the limits on grounds of public or private interests governing the public right of access to documents have been laid down in Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹, which was adopted on the basis of Article 255(2) of the Treaty establishing the European Community.
- (2) In accordance with that Article, Regulation (EC) No 1049/2001 only governs the public right of access to documents of the European Parliament, the Council and the Commission.
- (3) Following the entry into force of the Treaty of Lisbon, Article 255 of the Treaty establishing the European Community was replaced with Article 15(3) of the Treaty on the Functioning of the European Union.
- (4) The new provision grants any citizen of the Union and any natural or legal person residing or having its registered office in a Member State a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium, subject to the principles and the conditions defined by the legislator in accordance with that Article. However, as regards the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, this public right of access applies only when they exercise their administrative tasks.
- (4a) The right of access to documents is also recognised by Article 42 of the Charter of Fundamental Rights of the European Union.**
- (5) Regulation (EC) No 1049/2001 should therefore be amended accordingly,

¹ OJ L 145 of 31.5.2001, p. 43.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1049/2001 is amended as follows:

1. In Article 1, point (a) is replaced by the following:

"(a) to define the principles, conditions and limits on grounds of public or private interest governing the right of (...) access to documents of the institutions of the European Union, as defined in Article 3 (c), provided for in Article 15(3) of the Treaty on the Functioning of the European Union in such a way as to **ensure** the widest possible access to documents,"

2. In Article 2, paragraph 3 is replaced by the following:

"3. This Regulation shall apply to all documents held by an institution, as defined in Article 3 (c), that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union. As regards the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, this Regulation shall apply only when they exercise their administrative tasks."

3. In Article 3, the following point (c) is added:

"(c) 'institutions' shall mean institutions, bodies, offices and agencies of the European Union, including the European External Action Service."

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President