

GENERAL SECRETARIAT

Directorate-General F III

Subject : Commission proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (doc. 5817/1/00 REV 1)

**Working document
for Trialogue on 24 January 2001**

<u>COMMISSION</u>	<u>EP</u> (PE 297.811 2000/0032(COD) - PE1 December 2000)	<u>COUNCIL</u> (Presidency proposal)
<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof,</p> <p>Having regard to the proposal from the Commission ,</p> <p>Acting in accordance with the procedure referred to in Article 251 of the Treaty ²,</p> <p>Whereas:</p> <p>(1) The second paragraph of Article 1 of the Treaty on European Union, as amended by the Treaty of Amsterdam, enshrines the concept of openness, stating that: "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as</p>	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof,</p> <p>Having regard to the proposal from the Commission¹,</p> <p>Acting in accordance with the procedure referred to in Article 251 of the Treaty²,</p> <p>Whereas:</p> <p>(1) <i>Trust and confidence in the European Union and its institutions can only be ensured if an open and democratic political debate and decision-making process take place at all levels.</i></p> <p>(2) The second paragraph of Article 1 of the Treaty on European Union, as amended by the Treaty of Amsterdam, enshrines the concept of openness, stating that: "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen".</p>	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof,</p> <p>Having regard to the proposal from the Commission,</p> <p>Acting in accordance with the procedure referred to in Article 251 of the Treaty establishing the European Community,</p> <p>Whereas:</p> <p>(1) The second subparagraph of Article 1 of the Treaty on European Union, as amended by the Treaty of Amsterdam, enshrines the concept of openness, stating that "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the</p>

<p>possible to the citizen".</p> <p>(2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable vis-à-vis the citizen in a democratic system.</p>	<p>(3) <i>The Charter of Fundamental Rights of the European Union adopted by the European institutions on &. stresses the same concept of openness in Article 41 (right to good administration) and Article 42 (right of access to documents).</i></p> <p>(4) <i>Strengthening the protection of the rights and interests of nationals of the Member States of the Union is listed in Article 2 of the Treaty on European Union as an objective of the Union; Article 2 of that Treaty also stipulates that the objectives of the Union shall be achieved while respecting the subsidiarity principle.</i></p> <p>(5) <i>In the context of the European Union, Declaration 17 annexed to the Final Act of the Maastricht Treaty recognises that "transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration". Transparency can therefore contribute to the strengthening of the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law on which the Union is founded as stated in Article 6 of the Treaty on European Union. Transparency also plays a vital part in protecting against the arbitrary use of and the abuse of power and against corruption and fraud.</i></p> <p>(6) <i>In accordance with the democratic principle laid down in Article 6 of the Treaty on European Union, in exceptional cases where documents cannot be made public,</i></p>	<p>citizen."</p> <p>(2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system.</p>
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<p>(3) The conclusions of the European Councils held at Birmingham, Edinburgh and Copenhagen stressed the need to introduce greater transparency into the work of the Union institutions. Following these conclusions, the institutions launched a series of initiatives aimed at improving the transparency of the decision-making process by targeting information and communication measures more effectively and adopting rules on public access to documents.</p>	<p><i>Parliamentary scrutiny should be granted according to an interinstitutional agreement.</i></p> <p>(7) <i>Openness and transparency are also means of overcoming any problems that may be caused by cultural and linguistic differences among the Member States.</i></p> <p>(8) <i>This Regulation provides a new legal basis and consolidates the initiatives that the institutions have already taken with a view to improving the transparency of the decision-making process by targeting information and communication measures more effectively and adopting rules on public access to documents. On the same basis, this Regulation is the legal framework for existing and future interinstitutional agreements in relation to methods of drafting laws, content and format of the Official Journal, managing and storing documents with a view to granting access, and guidelines on the implementing rules on access to documents.</i></p> <p>(9) <i>The implementing rules on public access to documents should be drafted as clearly as possible.</i></p>	<p>(3) The conclusions of the European Council meetings held at Birmingham, Edinburgh and Copenhagen stressed the need to introduce greater transparency into the work of the Union institutions. Following these conclusions, the institutions launched a series of initiatives aimed at improving the transparency of the decision-making process by targeting information and communication measures more effectively and adopting rules on public access to documents.</p>
<p>(4) The purpose of this Regulation is to widen access to documents as far as possible, in line with the principle of openness. It puts into practice the right of access to documents and lays down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty.</p>	<p>(10) <i>In recognition of the need for further progress in the Union towards greater transparency, the Treaty of Amsterdam introduced into the Treaty Article 255 on the right of access to documents. Consistent with the principle of openness in Article 1 of the Treaty on European Union, the purpose of this Regulation which implements Article 255 of the Treaty, is to give the fullest possible</i></p>	<p>(4) The purpose of this Regulation is to lay down the principles, limits and conditions governing the right of access to European Parliament, Council and Commission documents enshrined in Article 255(1) of the EC Treaty and to widen access to documents as far as possible. [Its objective is not to harmonise existing national legislation on access to documents.]</p>

<p>(5) Since the question of access to documents is not covered by provisions of the ECSC and Euratom Treaties, this Regulation will apply to documents concerning the activities covered by those two Treaties. This was confirmed by Declaration No 41 attached to the Final Act of the Treaty of Amsterdam.</p>	<p><i>effect to the right of access to documents and thereby to increase openness and transparency in the institutions.</i> It defines the scope of the right of access to documents and lays down the general principles and limits on such access in accordance with Article 255(2) of the Treaty.</p> <p>(11) Since the question of access to documents is not covered by provisions of the ECSC and Euratom Treaties, this Regulation will apply to documents concerning the activities covered by those two Treaties. This was confirmed by Declaration No 41 attached to the Final Act of the Treaty of Amsterdam.</p>	<p>(EP, preamble 22)</p> <p>(5) Declaration No 41 attached to the Final Act of the Treaty of Amsterdam provides that the European Parliament, the Council and the Commission, when they act in pursuance of the ECSC and Euratom Treaties, should draw guidance from the provisions relating to transparency, access to documents and the fight against fraud in force within the framework of the EC Treaty.</p> <p>(EP, preamble 5)</p> <p>(6) Article 207 of the EC Treaty provides that for the purpose of applying Article 255(3), the Council shall elaborate in its Rules of Procedure the conditions under which the public shall have access to Council documents and define the cases in which it is to be regarded as acting in its legislative capacity. Consistent with this provision, greater access to documents should be granted to documents in cases in which the institutions are acting in their legislative capacity, while at the same time preserving the effectiveness of their decision-making process.</p> <p>(EP, preambles 15, 24)</p>
<p>(6) Under Articles 28(1) and 41(1) of the Treaty on European Union, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters.</p>	<p>(12) Under Articles 28(1) and 41(1) of the Treaty on European Union, the right of access also applies to documents relating to the common foreign and security policy and to police and</p>	<p>(7) By virtue of Articles 28(1) and 41(1) of the Treaty on European Union, Article 255 of the Treaty establishing the European Community</p>

<p>(7) In order to bring about greater openness in the work of the institutions and in line with current national legislation in most of the Member States, access to documents should be extended to include all documents held by the European Parliament, the Council and the Commission.</p>	<p>judicial cooperation in criminal matters.</p> <p>(13) <i>Where bodies and agencies are created by the European Parliament, the Council or the Commission and they are under the responsibility of the institutions, those bodies and agencies should, as regards access to documents, apply the principles laid down in this Regulation. As a matter of good administration, the other institutions and bodies may adopt internal rules on public access to documents which take account of the principles and limits in this Regulation.</i></p> <p>(14) In order to bring about greater openness in the work of the institutions and in line with current national legislation in most of the Member States, access to documents should be extended to include all documents held by the European Parliament, the Council and the Commission.</p>	<p>shall apply to the provisions relating to the areas referred to in titles V and VI of the Treaty on European Union, relating respectively to the common foreign and security policy, and to police and judicial cooperation in criminal matters.</p> <p>(8) Special procedural treatment has to be foreseen for certain documents on account of their highly sensitive content.</p> <p>(9) In order to bring about greater openness in the work of the institutions, access to documents should be extended to include not only documents drawn up by the European Parliament, the Council and the Commission, but also documents received from third parties which are in the possession of those institutions, [while respecting the right of the author of a document to oppose its release]. In this context, it is recalled that Declaration No 35 attached to the Final Act of the Treaty of Amsterdam provides that the principles and conditions referred to in Article 255 (1) of the EC Treaty will allow a Member State to request the Commission or the Council not to</p>
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<p>(8) The principles laid down by this Regulation are to be without prejudice to the specific rules applicable to access to documents, in particular those directly concerning persons with a specific interest.</p> <p>(9) The public interest and certain individual interests should be protected by way of a system of exceptions. Examples of these interests should be given in each case so that the system may be as transparent as possible. The institutions should also be entitled to protect their internal documents which express individual opinions or reflect free and frank discussions and provision of advice as part of internal consultations and deliberations.</p>	<p>(15) <i>In accordance with Article 207 of the Treaty, greater access to documents should be granted at least in those cases where the institutions can be regarded as acting in their legislative capacity. Therefore, in principle, all documents adopted in the course of a legislative procedure should be made public.</i></p> <p>(16) The principles laid down by this Regulation are to be without prejudice to the specific rules applicable to access to documents, <i>where those rules provide wider access than required by this Regulation or in certain specific areas where such rules are justified. Such rules should be listed in an Annex to this Regulation.</i></p> <p>(17) <i>In principle, all the documents of the institutions are accessible. However, certain public and private interests may be protected by way of a system of exceptions. The institutions should be entitled to protect informal information designed to enable personal opinions to be given or ideas to be freely exchanged within the institutions. When decisions are taken on the disclosure of a document, the need to protect some of the interests envisaged by the exceptions should be weighed against the interest of promoting transparency and public discussion.</i></p>	<p>communicate to third parties a document originating from that State without its prior agreement.</p> <p>(10) The present Regulation should apply to documents in whatever form, while preserving the possibility of the institutions to protect the expression of personal opinions and discussions and the provision of advice as part of internal consultations and deliberations.</p> <p>(11) The public interest, the privacy and integrity of the individual and certain economic interests of natural or legal persons should be protected by way of mandatory exceptions. The interest in preserving the institutions' decision making process should be balanced</p>
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<p>(10) In order to ensure that the right of access is fully observed, the present two-stage administrative procedure, with the possibility of court proceedings or complaints to the Ombudsman, should be maintained, whilst the principle should be introduced whereby at the confirmatory stage no response is treated as a positive response.</p>	<p>(18) In order to ensure that the right of access is fully observed, a two-stage administrative procedure, with the possibility of court proceedings or complaints to the Ombudsman, should be <i>established</i>; where at the confirmatory stage no response <i>is given, the applicant should be entitled to institute court proceedings or to make a complaint to the Ombudsman.</i></p> <p>(19) <i>Each institution may at the time a document is produced or received and should at the latest when it is listed in the register examine by reference to specific exceptions laid down in this Regulation whether access to that document may be limited.</i></p>	<p>against the public interest in the disclosure of the document.</p> <p>(12) This regulation is without prejudice to specific rules which grant the applicant wider access to documents, including the right of an individual to have access to his personal file, and to rights of the public to information acquired under instruments of international law to which the Community is a party or acts of the institutions implementing them. <i>(EP, preamble 16)</i></p> <p>(13) The two-stage procedure which is presently applied for handling requests for access to documents, including the possibility of court proceedings or complaints to the Ombudsman, should be maintained, while clarifying that applications are to be dealt with promptly. It should also be guaranteed that throughout the procedure documents to which, by virtue of the rules adopted by the institution in question, access is limited within the institution to persons specifically authorized to this effect, are examined only by those persons.</p> <p>(14) [In order to ensure the uniform application of the present Regulation, any Member States' authority which receives an application for a document of an institution which has not yet been released by the institution concerned</p>
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<p>(11) Each institution should take the measures necessary to inform the public about the new provisions in force; furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution should provide access to a register of documents.</p>	<p>(20) Each institution <i>should be responsible for taking</i> measures to inform the public about the new provisions in force. Furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution should <i>establish</i> a register of documents. <i>If necessary, the institutions should be provided with adequate resources to enable them to implement the Regulation properly.</i></p> <p>(21) <i>Each institution should encourage and educate the staff concerned to help and assist citizens trying to exercise their rights arising from this Regulation and should establish contact points. Each institution should reorganise and simplify the internal procedures and methods for managing the work flow of documents.</i></p>	<p>should forward it promptly to this institution for a decision to be taken. The same mechanism should apply between the institutions.]</p> <p style="text-align: right;"><i>(EP, preamble 22)</i></p> <p>(15) Each institution should take the necessary measures to inform the public about the provisions governing the right of access to its documents. In order to facilitate this right, each institution should provide access to a register of documents.</p>
<p>(12) Even though it is neither the object nor the effect of this Regulation to amend existing national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyalty which governs relations between the Community institutions and the Member States, Member States should take care not to hamper the proper application of this Regulation.⁽¹⁾</p>	<p>(22) <i>In accordance with the principle of subsidiarity in Article 5 of the Treaty</i> this Regulation <i>does not amend or harmonise</i> existing national legislation on access to documents. <i>In accordance with</i> the principle of loyal cooperation <i>laid down in Article 10 of the Treaty</i> which governs relations between the Community institutions and the Member States, <i>the institutions should take account of the opinion of the author before taking the final decision on the disclosure of documents. At the same time the institutions concerned should respect the right of Member States to grant access in accordance with their</i></p>	

<p>(13) In accordance with Article 255(3) of the EC Treaty, each institution lays down specific provisions regarding access to its documents in its rules of procedure. Failing such provisions, this Regulation cannot be applicable. This Regulation and the provisions giving effect to it will replace Council Decision 93/731/EC of 20 December 1993 on public access to Council documents ³, Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents ⁴ and European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents ⁵.</p> <p>-----</p> <p>HAVE ADOPTED THIS REGULATION:</p>	<p><i>national legislation.</i></p> <p>(23) <i>The protection which citizens of the Union enjoy pursuant to international agreements should not be limited by the Union.</i></p> <p>(24) In accordance with Article 255(3) of the Treaty, each institution lays down specific provisions regarding access to its documents in its rules of procedure. <i>Those provisions should supplement this Regulation and should not conflict with its content. This applies also to the conditions under which the public are to have access to Council documents, to be elaborated in the Council's Rules of Procedure pursuant to Article 207(3) of the Treaty, since Article 255(1) of the Treaty is to be seen as the general principle and overriding provision.</i></p> <p>(25) This Regulation and the provisions giving effect to it will replace Council Decision 93/731/EC of 20 December 1993 on public access to <i>Council documents as last amended by Council Decision 2000/527/EC of 14 August 2000</i>³, Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents⁴ and European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents⁵ <i>which should therefore be repealed. The rules relating to the confidentiality of Schengen documents and to the historical archives should also be repealed.</i></p> <p>HAVE ADOPTED THIS REGULATION:</p>	
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<p style="text-align: center;"><i>Article 1</i> <i>General principle and beneficiaries</i></p> <p>Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to the widest possible access to the documents of the institutions within the meaning of this Regulation, without having to cite reasons for their interest, subject to the exceptions laid down in Article 4.</p>	<p style="text-align: center;"><i>CHAPTER I</i> <i>GENERAL PRINCIPLES AND SCOPE</i></p> <p style="text-align: center;"><i>Article 1</i> <i>Purpose</i></p> <ol style="list-style-type: none"> 1. <i>The purpose of this Regulation, which implements Article 255 of the Treaty, is to give effect to the constitutional principle laid down in Article 1 of the Treaty on European Union according to which decisions in the Union have to be taken as openly as possible and as closely as possible to the citizen.</i> 2. <i>Pursuant to Article 255(2) of the Treaty, this Regulation defines the principles and conditions on which this right of access to documents can be limited on grounds of public or private interest</i> 3. <i>The purpose of this Regulation is also to promote good practice on information management in the institutions covered by this Regulation and to give natural and legal persons the opportunity to monitor and influence the functioning of the institutions.</i> <p style="text-align: center;"><i>Article 2</i> <i>Beneficiaries</i></p> <p>Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has the right of access to the documents of the institutions within the meaning of this Regulation, without having to cite reasons for their interest, subject to the principles and limits determined in this Regulation.</p>	<p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i> <i>General principle and beneficiaries</i></p> <ol style="list-style-type: none"> 1. Any citizen of the European Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European
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<p style="text-align: center;"><i>Article 2</i> <i>Scope</i></p> <p>1. This Regulation shall apply to all documents held by the institutions, that is to say, documents drawn up by them or received from third parties and in their possession.</p> <p>Access to documents from third parties shall be limited to those sent to the institution after the date on which this Regulation becomes applicable.</p> <p>2. This Regulation shall not apply to documents already published or accessible to the public by other means.</p> <p>This Regulation shall not apply where specific</p>	<p>The institutions shall ensure that the widest and easiest possible public access to documents is granted.</p> <p>The institutions may under the same conditions grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.</p> <p style="text-align: center;"><i>Article 3</i> <i>Scope</i></p> <p>1. This Regulation shall apply to all documents drawn up by the <i>institutions or originating</i> from third parties and in their possession <i>in all areas of activity of the Union.</i></p>	<p>Parliament, Council and Commission (hereinafter "the institutions") documents, subject to the principles, limits and conditions defined in the present Regulation.</p> <p>2. The institutions may under the same conditions grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.</p> <p>3. The institutions shall according to their own Rules of Procedure determine which categories of documents will be directly accessible to the public, especially those relating to their legislative activities.</p> <p>4. This Regulation shall be without prejudice to rights of access to documents held by the institutions which might follow from instruments of international law to which the Community is a party or acts of the institutions implementing them.</p> <p style="text-align: center;"><i>Article 2</i> <i>Scope</i></p> <p>1. This Regulation shall apply to all documents held by an institution, that is to say, documents drawn up by it or received from third parties and in its possession, in all areas of activity of the European Union.</p>
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<p>rules on access to documents exist.</p> <p style="text-align: center;"><i>Article 3</i> <i>Definitions</i></p> <p>For the purposes of this Regulation:</p> <p>a) "document" shall mean any content whatever its</p>	<p>2. <i>In case of conflict, this Regulation takes precedence over existing Regulations adopted on the basis of the European Union or Community Treaties allowing less favourable treatment for the citizens with regard to access and limits to access to documents.</i></p> <p>3. <i>This Regulation shall not preclude the application of the specific rules in Annex I.</i></p> <p style="text-align: center;"><i>Article 4</i> <i>General Principles</i></p> <p>1. <i>The right of access to documents of the institutions includes access to published documents and access to documents available on the register and documents available on written request.</i></p> <p>3. <i>This Regulation does not affect the right of Member States to grant access to documents in accordance with their national legislation.</i></p> <p>4. <i>This Regulation does not authorise the withholding of documents from the European Parliament.</i></p> <p>5. <i>This Regulation does not deprive citizens of the Union of rights concerning access to documents acquired under instruments of international law.</i></p>	<p>2. This Regulation shall also apply to sensitive documents as defined in Article 3 (b). Those documents shall receive special procedural treatment.</p>
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<p>medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording); only administrative documents shall be covered, namely documents concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility, excluding texts for internal use such as discussion documents, opinions of departments and excluding informal messages;</p> <p>b) "institutions" shall mean the European Parliament, the Council and the Commission;</p> <p>c) "European Parliament" shall mean Parliament bodies (and in particular the Bureau and the Conference of Presidents), Parliamentary Committees, the political groups and departments;</p> <p>d) "Council" shall mean the various configurations and bodies of the Council (and in particular the Permanent Representatives Committee and the working parties), the departments and the committees set up by the Treaty or by the</p>	<p>6. <i>This Regulation is without prejudice to the rights of judicial authorities, investigative bodies and Parliaments.</i></p> <p style="text-align: center;"><i>Article 5</i> Definitions</p> <p>For the purposes of this Regulation:</p> <p>(a) document shall mean any content <i>held, received or produced by the institution</i> whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) <i>authored by an individual, department (unit, division, directorate) or institution in the implementation of its procedural rules or official duties</i> concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility. <i>document shall not mean informal information in the form of written messages designed to enable personal opinions to be given or ideas to be freely exchanged (brainstorming) within the institutions.</i></p> <p>(b) institutions shall mean the European Parliament, the Council and the Commission <i>as well as</i></p> <p style="padding-left: 20px;">- <i>their internal and subsidiary bodies (for example European Parliament Committees, Council Committees, Council Working Groups and</i></p>	<p><i>(Article 1, paragraph 4)</i></p> <p style="text-align: center;"><i>Article 3</i> Definitions</p> <p>For the purpose of this Regulation:</p> <p>(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), excluding those for internal use as part of preliminary consultations and deliberations within the institutions such as discussion documents, unfinished documents or draft documents and documents whose content reflects personal opinions.</p> <p>(b) "sensitive documents" shall mean documents classified as "Top Secret", "Secret" or "Confidential" on account of the sensitivity of their content in conformity with the rules adopted by the</p>
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<p>legislator to assist the Council;</p> <p>e) "Commission" shall mean the Members of the Commission as a body, the individual Members and their private offices, the Directorates-General and departments, the representations and delegations, committees set up by the Commission and committees set up to help it exercise its executive powers ;</p> <p>f) "third party" shall mean any natural or legal person, or any entity outside the institution, including the Member States, other Community and non-Community institutions and bodies and non-member countries.</p> <p>AA list of A list of A list of the committees referred to in points (d) and (e) of the first paragraph shall be drawn up as part of the rules giving effect to this Regulation, as provided for in Article 10.</p>	<p><i>Commission Directorates-General);</i></p> <p>- <i>agencies created by the institutions and accountable to the institutions, as listed in Annex II.</i></p> <p><i>"third party" shall mean any natural or legal person, or any entity outside the institution, including the Member States, other Community and non-Community institutions and bodies and non-member countries.</i></p> <p><i>Article 6</i> <i>Principles on Access</i></p>	<p>institution concerned.</p> <p>(c) "third party" shall mean any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and non-member countries.</p>
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	<p>1. All documents are accessible unless the limits on access set out in Article 7 apply.</p> <p>2. If an institution wishes to limit access to a document it may classify the document as soon as the document is produced or received and shall classify it at the latest when it is listed in the register referred to in Article 18. A later classification may not limit access to a document save in exceptional circumstances. Classification shall include a reference to the relevant exception in Article 7.</p> <p>Where the conditions for the application of an exception exist for a certain time only, classification shall be limited in time accordingly.</p> <p>3. When an application for disclosure is made, the institution shall assess whether the exception in Article 7 still applies. In any event all classifications not limited in time shall be reviewed at regular intervals.</p> <p>4. After the expiry of a period of 30 years, all documents shall be accessible to the public except the following documents or parts of documents:</p> <ul style="list-style-type: none"> - files relating to staff of the institutions or records containing information on the private or professional life of individual persons or otherwise covered by the rules on the protection of personal data - documents which have been graded confidential or higher and which have not been declassified 	<p><i>(Article 1, paragraph 3)</i></p>
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<p style="text-align: center;"><i>Article 4</i> <i>Exceptions</i></p> <p>The institutions shall refuse access to documents where disclosure could significantly undermine the protection of:</p> <p>a) the public interest and in particular:</p> <p style="padding-left: 40px;">public security,</p> <p style="padding-left: 40px;">defence and international relations,</p> <p style="padding-left: 40px;">relations between and/or with the</p>	<p>- contracts submitted to or concluded by the Euratom Supply Agency pursuant to Chapter VI of the Treaty establishing the European Atomic Energy Community.</p> <p>(Article 13, paragraph 1)</p> <p>(Article 13, paragraph 1) (Article 13, paragraph 7)</p> <p style="text-align: center;">Article 7 Exceptions</p> <p>1. Public access to documents may be limited on the following grounds:</p>	<p style="text-align: center;"><i>Article 3 A</i> <i>Applications</i></p> <p>1. Applications for access to a document shall be made in writing in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for his application.</p> <p>2. If an application is not sufficiently precise the institution shall ask the applicant to specify the application and shall assist the applicant in doing so, e.g. by providing information on the use of the public registers of documents.</p> <p>3. In the event of general and repetitive</p>
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<p>Member States or Community and non-Community institutions, financial or economic interests, monetary stability, the stability of the Community's legal order, court proceedings, inspections, investigations and audits, infringement proceedings, including the preparatory stages thereof, the effective functioning of the institutions;</p> <p>b) privacy and the individual, in particular: personnel files, information, opinions and assessments given in confidence with a view to recruitments or appointments, an individual's personal details or documents containing information such as medical secrets which, if disclosed, might constitute an infringement of privacy or facilitate such an infringement;</p> <p>c) commercial and industrial secrecy or the economic interests of a specific natural or legal person and in particular: business and commercial secrets,</p>	<p>(a) <i>access may be denied on grounds of public interest where disclosure could significantly undermine</i> public security, monetary stability, <i>defence and military matters,</i> <i>vital interests relating to the European Union's international relations.</i></p> <p>(b) <i>access shall be denied where disclosure would be contrary to the protection, under the law, of the right to privacy of an individual;</i></p> <p>(Article 8)</p> <p>c) <i>access may also be denied on grounds of commercial secrecy where this outweighs the public and private interest in disclosure.</i></p> <p><i>2. When considering the public interest in the disclosure of the document, the institution</i></p>	<p>applications or applications relating to very large documents or a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.</p> <p style="text-align: center;"><i>Article 4</i> <i>Exceptions</i></p> <p>1. The institutions shall refuse access to documents where disclosure would undermine the protection of:</p> <p>a) the public interest as regards:</p> <ul style="list-style-type: none"> - public security; - defence and military matters; - international relations; - relations between a Member State and an institution of the Community, or between the institutions of the Community and non-Community institutions; - the financial, monetary or economic policy of the Community or of a Member State; - court proceedings; - efficiency of inspections, investigations and audits; - infringement proceedings including the preparatory stages thereof; - [the ability of the institutions to seek the advice of their legal
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<p>intellectual and industrial property,</p> <p>industrial, financial, banking and commercial information, including information relating to business relations or contracts,</p> <p>information on costs and tenders in connection with award procedures;</p> <p>d) confidentiality as requested by the third party having supplied the document or the information, or as required by the legislation of the Member State.</p>	<p><i>shall also take account of the interest raised by a petitioner, complainant or other beneficiary having a right, interest or obligation in a matter.</i></p> <p><i>(Articles 10, 11)</i></p> <p><i>3. Where the institution gives a negative reply because part of the document is covered by any of the exceptions provided for in paragraph 1, the institution shall provide an edited version of the document.</i></p> <p><i>4. When access is requested to a document drawn up for the purpose of internal consultation, information therein on an official's personal opinions on policy may be disclosed in a form that cannot be traced to an individual person.</i></p>	<p>services];</p> <p>b) privacy and the integrity of the individual,</p> <p>in particular as protected by Community legislation regarding the protection of personal data.</p> <p>c) economic interests of a natural or legal person concerning in particular:</p> <ul style="list-style-type: none"> - business and commercial secrets; - intellectual and industrial property; - information on costs and tenders in connection with award procedures before these procedures are completed. <p>2. Access to a document which relates to matter where the decision has not been taken by the Institutions, may be denied if its disclosure could seriously undermine the institution's decision-making process, unless it is clearly in the public interest to disclose the document.</p> <p>3. [Access to a document provided by a Member State shall be refused if the member State asks the document not to be disclosed without its prior consent.</p> <p>In cases non covered by the precedent subparagraph, the institution shall consult the third party unless it is clear that the documents requested can be released without prejudice to the third party.</p>
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	<p style="text-align: center;">Article 8 Access to personal data</p> <p><i>The right of access to personal data held by the institutions is regulated according to:</i></p> <p>(a) <i>European Parliament and Council Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, when the data are treated in relation to activities to tally or partially founded on the Treaty;</i></p> <p>(b) <i>the principles outlined in Annex III which shall be applicable in the absence of specific rules adopted on the basis of the Treaties.</i></p> <p>Article 9 Measures to be agreed by the institutions</p> <p><i>Within a period of one year following the entry into force of this Regulation, the institutions shall, in application of this Regulation, enter into agreements, or modify existing agreements, on the following common elements which will provide the basis for the adoption of the internal rules referred to in Article 255 of the Treaty:</i></p> <p>(a) <i>agreed rules for the classification of documents to which, following an assessment, the exceptions in Article 7 apply and therefore to which access may be limited, including:</i></p> <ul style="list-style-type: none"> - treatment and protection of such documents, including highly confidential 	<p>4. Access shall be refused to sensitive documents if their originator has not given its consent].</p> <p><i>(Article 7, paragraph 4)</i></p>
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	<p>documents;</p> <ul style="list-style-type: none"> - application of security gradings (top secret, secret, confidential or restricted) indicating the level of security in cases where the exceptions in Article 7 apply and restrictions on access within an institution or between the institutions are justified; - transmission of classified documents between the institutions and procedures for resolving conflicts between the institutions in cases of doubt on the confidential nature of documents, including if appropriate the establishment of a European Information Authority; - procedures relating to the provision of information classified as confidential to a select committee of the European Parliament according to the sensitivity of the documents; <p>(b) general measures on the production, storage and dissemination of documents (through a common interface), including measures on quality of drafting of legislation and archiving of documents⁶.</p> <p>The agreements will be adopted by the Council acting by a simplified qualified majority in accordance with Article 205(2) of the Treaty and by the European Parliament acting by a majority of the votes cast. The agreements may be modified at the request of one of the parties.</p> <p style="text-align: center;"><u>CHAPTER II</u></p>	
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THIRD PARTIES AND MEMBER STATES**Article 10****Documents of Member States or third parties**

- 1. Any Member State or third party which transmits documents to an institution shall indicate whether, and if so which, parts of the documents are not to be disclosed to the public.**
- 2. The third party must refer to the relevant exception(s) in Article 7 and must state whether the classification is limited in time.**
- 3. The Member State or third party may submit a public version which may be disclosed by the institution.**
- 4. The institutions shall decide according to guidelines to be agreed in the framework of an interinstitutional agreement whether the document or part of document in question can be made public.**
- 5. If the institution decides that, contrary to the opinion of the Member State or third party, the document or part thereof does not fall within the exceptions in Article 7(1) and should therefore be disclosed, the institution shall immediately inform the third party or Member State of the reasons for disclosure and the date on which the information is to be disclosed (which shall not be less than one week from the date of notification) and of its right to seek interim measures from the European Court of Justice.**

Article 11

<p style="text-align: center;"><i>Article 5</i> <i>Processing of initial applications</i></p> <p>1. All applications for access to a document shall be made in writing in a sufficiently precise manner to enable the institution to identify the document. The institution concerned may ask the applicant for further details regarding the application.</p> <p>In the event of repetitive applications and/or applications relating to very large documents, the institution concerned shall confer with the applicant in formally, with a view to finding a fair solution.</p> <p>2. Within one month of registration of the application, the institution shall inform the applicant, in a written and reasoned reply, of the outcome of the application.</p>	<p style="text-align: center;"><i>Relationship with the Member States</i></p> <ol style="list-style-type: none"> <i>1. Where a Member State receives a request for documents considered classified by an institution and which according to the rules of that Member State may be disclosed, the Member State shall immediately inform the institution.</i> <i>2. The Member State shall decide whether the documents or parts thereof in question can be disclosed.</i> <i>3. The Member States and the institutions shall cooperate in the provision of information to the citizens.</i> <p style="text-align: center;"><u>CHAPTER III</u> <u>ACCESS TO DOCUMENTS</u></p> <p style="text-align: center;"><i>Section 1</i> <i>Right of Access</i></p> <p style="text-align: center;"><i>Article 12</i> <i>Publication of documents in the Official Journal</i></p> <p><i>In addition to the documents required to be published by Article 254 of the Treaty, the documents referred to in Annex IV shall be published in the Official Journal including, where appropriate, the date of entry into force.</i></p> <p style="text-align: center;"><i>Article 13</i> <i>Documents accessible on written application</i></p>	
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<p>3. Where the institution gives a negative reply to the applicant, it shall inform him that, within one month of receiving the reply, he is entitled to make a confirmatory application asking the institution to reconsider its position, failing which he shall be deemed to have withdrawn the original application.</p> <p>4. In exceptional cases, the one-month time-limit provided for in paragraph 2 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.</p> <p>Failure to reply within the prescribed time-limit shall be treated as a negative response.</p>	<p>1. All applications for access to a document shall be made in writing <i>in one of the official languages of the institutions</i> in a sufficiently precise manner to enable the institution to identify the document. The institution concerned may ask the applicant for further details regarding the application <i>for the purposes of identifying the documents.</i></p> <p><i>In writing also comprises applications in electronic form such as fax or e-mail.</i></p> <p>2. Within <i>two weeks</i> of registration of the application, the institution shall inform the applicant, in a written reply, of the outcome of the application <i>and, if the application is accepted, transmit the documents within the same period.</i></p> <p>3. Where the institution gives a negative reply to the applicant, <i>the institution shall state the reasons for its refusal, the period of time during which the document cannot be disclosed and, where relevant, the source from which the applicant may obtain the document.</i></p> <p>4. <i>The institution shall also inform the applicant</i> that, within one month of receiving the reply, he is entitled to make a confirmatory application</p>	<p>(Article 3 A, paragraph 1)</p> <p style="text-align: center;"><i>Article 5</i> <i>Processing of initial applications</i></p> <p>1. Applications for access to documents shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. In any event, within one month from registration of the application, the institution shall either grant the applicant access to all the documents applied for or, in a written reply, inform the applicant of the reasons for the total or partial refusal and of his right to make a confirmatory application in accordance with paragraph 2.</p> <p>(Article 7, paragraph 2)</p> <p>Initial applications for sensitive documents shall be handled only by those persons who have a right to acquaint themselves with those documents according to the internal</p>
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<p style="text-align: center;"><i>Article 6</i> <i>Processing of confirmatory applications; remedies</i></p> <p>1. Where the applicant submits a confirmatory application, the institution shall reply to him in writing within one month of the registration of the application. If the institution decides to maintain its refusal to grant access to the document requested, it shall state the grounds for its refusal and inform the applicant of the remedies open to him, namely court proceedings and a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.</p> <p>2. In exceptional cases, the time-limit provided for in paragraph 1 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.</p>	<p>asking the institution to reconsider its position.</p> <p>5. <i>If the institution considers that the document may be disclosed within six months of receipt of the application, the institution shall send the document to the applicant not more than two weeks after the date on which the document can be disclosed.</i></p> <p>6. In exceptional cases, the <i>two-week</i> time-limit provided for in paragraph 2 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.</p> <p>7. <i>The staff of the institutions shall as far as possible help and inform the citizens how and where applications for access to documents can be made.</i></p> <p><i>(Articles 10, 11)</i></p>	<p>rules of the institution concerned.</p> <p>2. In the event of a total or partial refusal, the applicant may, within one month of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.</p> <p>3. In exceptional cases, e.g. in the event of an application relating to very large documents or to a very large number of documents, the one-month time-limit provided for in paragraph 1 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.</p> <p>4. Failure to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.</p> <p>5. When a Member States' authority receives an application for access to a document of an institution which has not yet been released by the institution concerned, it</p>
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<p>Failure to reply within the prescribed time-limit shall be treated as a positive decision.</p> <p style="text-align: center;"><i>Article 7</i> <i>Exercise of the right to access</i></p> <p>1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy.</p> <p>The cost of his doing so may be charged to the applicant.</p> <p>2. Documents shall be supplied in an existing</p>	<p style="text-align: center;"><i>Article 14</i> <i>Processing of confirmatory applications</i></p> <p>1. Where the applicant submits a confirmatory application, the institution shall reply to him in writing within <i>two weeks</i> of registration of the application and, if the application is accepted, transmit the documents to him within the same period. If the institution decides to maintain its refusal to grant access to the document requested, it shall state the grounds for its refusal and inform the applicant of the remedies open to him, namely court proceedings and a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the Treaty, respectively.</p> <p>2. In exceptional cases, the time-limit provided for in paragraph 1 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.</p> <p>Failure to reply within the prescribed time-limit shall entitle the applicant to seek the remedies in</p>	<p>shall forward the application promptly to the institution for a decision to be taken.</p> <p>When an institution receives an application for access to a document of another institution, it shall forward the application to this other institution.]</p> <p style="text-align: center;"><i>Article 6</i> <i>Processing of confirmatory applications</i></p> <p>1. A confirmatory application shall be handled promptly. In any event, within one month from registration of such an application, the institution shall either grant access to the documents requested or, in a written reply, state the reasons for total or partial refusal. Should the institution deny access in total or in part, it shall inform the applicant of the remedies open to him, namely instituting court proceedings against the institution and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.</p> <p>Confirmatory applications for sensitive documents shall be handled only by those persons who have a right to acquaint themselves with those documents according to the internal rules of the institution concerned.</p> <p>2. In exceptional cases, e.g. in the event of an application relating to very large documents or to a very large number of documents, the time-limit provided for in</p>
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<p>language version, regard being had to the preference expressed by the applicant.</p> <p>An edited version of the requested document shall be provided if part of the document is covered by any of the exceptions provided for in Article 4.</p> <p style="text-align: center;"><i>Article 8</i> <i>Reproduction for commercial purposes or other forms of economic exploitation</i></p> <p>An applicant who has obtained a document may not reproduce it for commercial purposes or exploit it for any other economic purposes without the prior authorisation of the right-holder.</p>	<p><i>Article 20.</i></p> <p style="text-align: center;"><i>Section 2</i> <i>Exercise of right of access</i></p> <p style="text-align: center;"><i>Article 15</i> <i>Exercise of the right of access</i></p> <p>1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including an electronic copy.</p> <p><i>In the case of very substantial documents or a very large number of documents the cost of making copies may be charged to the applicant. The charge has to be limited to a reasonable sum which will not exceed the real cost of production of the copies. The cost of providing documents shall be determined annually (initially on the basis of estimates) with a view to establishing the rates which shall be made public. Consultation on the spot will be free of charge.</i></p> <p><i>(Article 13, paragraph 3)</i></p> <p>2. Documents shall be supplied in <i>the</i> language version requested by the applicant, or in the language of the application, provided that that language version is available. <i>Documents shall be supplied in the form</i></p>	<p>paragraph 1 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.</p> <p>3. Failure by the institution to reply within the prescribed time-limit shall be considered as a negative reply and entitle the applicant to refer the matter to the Ombudsman and/or to the Court of Justice, under the relevant provisions of the Treaties.</p> <p style="text-align: center;"><i>Article 7</i> <i>Exercise of the right to access</i></p> <p>1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, according to his preference.</p> <p>The cost of his doing so may be charged to the applicant. The charge has to be limited to an amount which will not exceed the real cost of production and sending of the copies.</p> <p>2. If a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access</p>
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<p style="text-align: center;"><i>Article 9</i> <i>Information and registers</i></p> <p>Each institution shall take the requisite measures to inform the public of the rights they enjoy as a result of this Regulation. Furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution shall provide access to a register of documents.</p>	<p><i>requested by the applicant if they are already available in that form, e.g. electronically or in an alternative format (such as Braille, large print or tape).</i></p> <p><i>(Article 7, paragraph 3)</i></p> <p>3. Parliamentary scrutiny of all documents excluded from public access shall be assured by regularly informing a body of the European Parliament in accordance with the format agreed in the interinstitutional agreement adopted pursuant to Article 9.</p> <p style="text-align: center;"><i>Article 16</i> <i>Reproduction for commercial purposes or other forms of economic exploitation</i></p> <p>2. This Regulation does not interfere with rights, existing by virtue of intellectual or industrial property, that protect information contained in documents.</p> <p>3. Any third party or Member State that receives information under this Regulation is responsible for complying with the applicable Community, national or international law relating to the protection of intellectual or industrial property rights.</p> <p style="text-align: center;"><i>Article 17</i> Information</p>	<p>to documents by informing the applicant how to obtain the requested document.</p> <p>3. Documents shall be supplied [in an existing version and form] as requested by the applicant if they are already available in that form, including electronically or in an alternative format, such as Braille, large print or tape, and regard being had to the preference expressed by the applicant.</p> <p>4. If only parts of the requested document are covered by any of the exceptions in Article 4, the remaining parts of the document shall be released.</p> <p style="text-align: center;"><i>Article 8</i> <i>Reproduction for commercial purposes or other forms of economic exploitation</i></p> <p>This Regulation shall be without prejudice to any existing rules on copyright which may limit the applicant's right to reproduce or exploit the released documents.</p>
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	<p>Each institution shall <i>be responsible for informing</i> the public of the rights they enjoy as a result of this Regulation <i>and for publishing in the Official Journal:</i></p> <p>(a) <i>the internal rules;</i> (b) <i>the structure of the institution including details of any departments, committees, and formal working groups in all areas of the Union's activities;</i> (c) the person to whom written applications for documents should be addressed; (d) <i>the means of access to the register;</i> (e) <i>a code of conduct on transparency for officials.</i></p> <p style="text-align: center;"><i>Article 18</i> <i>Registers</i></p> <p>1. <i>Within three months of the entry into force of this Regulation, each institution shall keep a register of all documents held, drawn up, received and sent by it. This register must be widely accessible to the public.</i></p> <p><i>A document shall be introduced in the register as soon as the institution or body has taken a formal decision or has filed or sent the document to other internal bodies, institutions or third parties or when one of the following conditions is met:</i></p> <p style="padding-left: 40px;">(a) <i>a decision, a contractual commitment, a memorandum and other similar documents: when they have been approved;</i> (b) <i>minutes: when they have been scrutinised and approved;</i> (c) <i>invitations to tender, to provide information,</i></p>	<p style="text-align: center;"><i>Article 9</i> <i>Information and registers</i></p> <p>1. Each institution shall take the requisite measures to inform the public of the rights they enjoy arising from this Regulation. Furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution shall provide access to a register of documents.</p> <p>2. The public register shall not include sensitive documents.</p> <p style="text-align: center;"><i>(Article 9, paragraph 1)</i></p>
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	<p><i>to comment on a proposal: when they have been approved;</i></p> <p><i>(d) procurement cases: when the contract has been awarded;</i></p> <p><i>(e) reports, discussion papers and similar documents: when they are in the possession of the institution or body in question.</i></p> <p>2. <i>The register shall contain the date when the document was produced or received, a title indicating its content and the type of classification. When a document has been released as a result of a request, this shall be notified and indicated in the Register.</i></p> <p><i>Where a document or parts thereof are subject to an exception under Article 7, the register shall indicate to what extent and on which grounds access to the document is limited.</i></p> <p>3. <i>Documents of the institutions which shall at the very least be included in the register are listed in Annex IV and include all documents created by an institution in the course of a procedure for the adoption of legally binding measures, notably all proposals, opinions, working documents, agendas, documents for discussion at formal meetings, minutes, declarations and positions of Member States.</i></p> <p>4. <i>Wherever possible documents shall be made directly accessible via the Internet and other forms of computer telecommunications. The documents referred to in paragraph 3 shall be made directly available within three months of the entry into force of this Regulation.</i></p>	
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	<p style="text-align:center"><i>Section 3</i> <i>Information Officers</i></p> <p style="text-align:center"><i>Article 19</i> <i>Appointment and tasks of the Information Officer</i></p> <p><i>1. Within six months of the entry into force of the Regulation, each Union institution shall appoint at least one person of appropriate rank as the Information Officer, with the task of:</i></p> <p><i>(a) deciding on the response to confirmatory applications and ensuring the correct application of the exceptions in Article 7;</i></p> <p><i>(b) ensuring in an independent manner the internal application of rules relating to transparency and supervising the maintenance of the register of documents for that institution;</i></p> <p><i>(c) ensuring that responses to citizens respect the language rules in Article 21 of the Treaty and providing assistance to citizens seeking further information on a subject in which the institution is involved.</i></p> <p><i>2. In application of this Regulation, the institutions shall take all necessary steps and measures to meet demand for disclosure of documents.</i></p> <p><i>3. The Information Officer shall be provided with the staff and resources required for the performance of his or her duties.</i></p> <p><i>4. Further rules concerning the Information Officer shall be laid down in the internal rules of each institution or body.</i></p>	
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CHAPTER IV
REMEDIES AND REPORTS

Article 20
Remedies

- 1. An applicant who receives a negative response to a confirm atory application may, in accordance with Article 195 of the Treaty, submit a complaint to the Ombudsman with a view to examining whether a case of maladministration has occurred.*
- 2. An applicant who receives a negative response to a confirm atory application may, in accordance with Article 230 of the Treaty, institute proceedings before the Court of Justice of the European Com munities.*
- 3. Where an institution decides to disclose a docum ent against the wishes of a third party, it shall give the third party at least one week in which to make an applicati on for interim measures in accordance with Article 243 of the Treaty.*
- 4. The Council shall consider whether changes need to be made to the rules of procedure of the Court of Justice of the European Communities and the Court of First Instance in relation to access to docum ents, in particular in relation to confidential docum ents and costs in transparency cases.*

Article 21

Article 10
Effect

Each institution shall adopt in its rules of procedure the provisions required to give effect to this Regulation. Those provisions shall take effect on [three months after the adoption of this Regulation].

	<p style="text-align: center;">Reports</p> <p><i>1. Within a period of three years following the entry into force of this Regulation the institutions shall produce a report setting out all the measures taken to implement this Regulation.</i></p> <p><i>2. Each year, each institution shall submit to the European Parliament a report for the preceding year setting out the number of cases in which the institution refused to grant access to documents and the reasons for such refusals.</i></p> <p style="text-align: center;">CHAPTER V TRANSITIONAL PROVISIONS</p> <p style="text-align: center;"><i>Article 22</i> <i>Effect</i></p> <p>Each institution shall adopt in its rules of procedure provisions implementing this Regulation. Those provisions shall take effect on ... [<i>at the latest one year after the entry into force</i> of this Regulation].</p> <p style="text-align: center;"><i>Article 23</i> <i>Europol</i></p> <p><i>In its capacity as the institution responsible for Europol, the Council shall examine within a period of one year of the entry into force of this Regulation, on the basis of a proposal presented by the Commission or an initiative presented by a Member State, the necessary amendments to bring the Council Act of 3 November 1998 adopting rules</i></p>	<p style="text-align: center;"><i>Article 10</i> <i>Effect</i></p> <p>Each institution shall adopt in its Rules of Procedure the provisions required to give effect to this Regulation. Those provisions shall take effect on ... (three months after the adoption of this</p>
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<p style="text-align: center;"><i>Article 11</i> <i>Entry into force</i></p> <p>This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities. It shall be applicable from & [three months from the date of adoption of this Regulation].</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p><i>on the confidentiality of Europol information⁷ into line with the principles of this Regulation.</i></p> <p style="text-align: center;">Article 24 Repeal</p> <p><i>From the date of the entry into force of this Regulation the following shall be repealed:</i></p> <p style="text-align: center;"><i>(a) Council Decision 93/731/EC of 20 December 1993 on public access to Council documents as last amended by Council Decision 2000/527/EC of 14 August 2000,</i></p> <p><i>(b) Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents,</i></p> <p><i>(c) European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents,</i></p> <p><i>(d) Decision of the Executive Committee of 14 December 1993 concerning the confidentiality of certain documents [SCH/Com-ex(93) 22 rev]⁸,</i></p> <p><i>(e) Decision of the Executive Committee of 23 June 1998 concerning the confidentiality of certain documents [SCH/Com-ex(98) 17]⁹,</i></p> <p><i>(f) Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community.</i></p>	<p>Regulation).</p> <p>EC, Euratom</p>
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*European Foundation for the Improvement of Living
and Working Conditions*
European Environment Agency
European Training Foundation
*European Monitoring Centre for Drugs and Drug
Addiction*

*European Agency for the Evaluation of Medicinal
Products*

*Office of Harmonisation in the Internal Market
(Trade Marks and Designs)*

European Agency for Safety and Health at Work

Community Plant Variety Office

Translation Centre for the bodies of the Union

European Observatory for Racism and Xenophobia

ANNEX III

**ACCESS TO PERSONAL DATA PROVIDED FOR
IN ARTICLE 8**

- 1. Data subjects must be informed of the collection
of personal data concerning them and of any
processing, unless the provision of that
information is impossible or involves a
disproportionate effort.***

2. *The information to be provided under point 1 must be that which is necessary, in view of the specific circumstances of the collection of the data, to guarantee to the data subject in question that the data are processed fairly.*
3. *All data subjects have the right of access to their personal data and to have communicated to them in an intelligible form, without constraints, at reasonable intervals and without excessive delay or expense, data concerning them and to obtain, as appropriate, the rectification of incomplete or inaccurate data and the erasure of data which have been processed unlawfully.*
4. *Access may be direct or indirect, for example via a supervisory authority, and may be subject only to restrictions linked to the object or specific nature of the instrument concerned.*
5. *[Other principles to be developed]*

ANNEX IV
DOCUMENTS TO BE PUBLISHED IN THE
OFFICIAL JOURNAL

	<p>1. The following documents shall be published in the Official Journal:</p> <p>Acts</p> <p>(a) <i>regulations, directives and decisions referred to in Article 254(1) and (2) of the EC Treaty and in Article 163 of the Euratom Treaty;</i></p> <p>(b) <i>framework decisions, decisions and conventions referred to in Article 34(2) of the Treaty on European Union;</i></p> <p>(c) <i>conventions signed between Member States on the basis of Article 293 of the EC Treaty;</i></p> <p>(d) <i>international agreements concluded by the Community or in accordance with Article 24 of the Treaty on European Union;</i></p> <p>(e) <i>directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions;</i></p> <p>Proposals</p> <p>(f) <i>proposals of the Commission as referred to in Articles 251 and 252 of the EC Treaty;</i></p> <p>(g) <i>initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty and pursuant to Article 34(2) of the Treaty on European Union;</i></p> <p>Common positions</p> <p>(h) <i>common positions adopted by the Council in accordance with the procedures referred to in Articles 251 and 252 of the EC</i></p>	
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	<p><i>Treaty, the reasons underlying those common positions, and common positions referred to in Article 34(2) of the Treaty on European Union;</i></p> <p>2. The following shall be published in the Official Journal, unless the Council or the Committee of Permanent Representatives decides by qualified majority voting, on a case-by-case basis, that they should not be so published:</p> <p>(a) <i>common strategies, joint actions and common positions referred to in Article 12 of the Treaty on European Union and the measures implementing joint actions;</i></p> <p>(b) <i>joint actions, the common positions or other decisions adopted on the basis of a common strategy, as provided for in the first indent of Article 23(2) of the Treaty on European Union;</i></p> <p>(c) <i>measures implementing decisions referred to in Article 34(2) of the Treaty on European Union and measures implementing conventions drawn up by the Council in accordance with Article 34(2) of the Treaty on European Union.</i></p> <p>3. Where an agreement concluded between the Communities and one or more States or international organisations sets up a body vested with powers of decision, the Council shall decide, when such an agreement is concluded, whether decisions to be taken by that body</p>	
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	<p><i>should be published in the Official Journal.</i></p> <p style="text-align: center;">ANNEX V</p> <p style="text-align: center;">DOCUMENTS TO BE INCLUDED AS A MINIMUM IN THE REGISTER</p> <p>(a) <i>all documents created in the course of the procedure for the adoption of legal measures;</i></p> <p>(b) <i>all documents relating to the formulation and adoption of policy or strategy;</i></p> <p>(c) <i>all documents relating to the implementation of EU legal instruments;</i></p>	<p><i>all documents created in the course of the procedure for the adoption of legal measures;</i></p> <p><i>all documents relating to the formulation and adoption of policy or strategy;</i></p> <p><i>all documents relating to the implementation of EU legal instruments;</i></p>
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¹ OJ C 177 E, 27.6.2000, p. 70.

² Position of the European Parliament of 14 December 2000.

³ OJ L 340, 31.12.1993, p. 43; Decision as last amended by Decision 96/705/EC, ECSC, Euratom (OJ L 325, 14.12.1996, p. 19) and by Decision 2000/527/EC (OJ L 212, 23.8.2000, p. 9).

⁴ OJ L 46, 18.2.1994, p. 58; Decision as amended by Decision 96/567/EC, ECSC, Euratom (OJ L 247, 28.9.1996, p. 45).

⁵ OJ L 263, 25.9.1997, p. 27.

⁶ As defined in Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1.)

⁷ OJ C 26, 30.1.1999, p. 10.

⁸ OJ L 239, 22.9.2000, p. 129.

⁹ OJ L 239, 22.9.2000, p. 137.