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-	chael Cashman	n behalf of the PSE Group, Hanja Maij-Weggen and Charlotte PPE-DE Group
A5-031		nman Its of the European Parliament, the Council and the Commission
-	al for a regulati 2000) 30 - C5-	57/2000 - 2000/0032(COD))
Commission p	roposal	Amendments by Parliament

(Amendment 70) Article 4c (new)

Documents of Member States or third parties

- 1. Any Member State or third party which transmits documents to an institution, shall indicate, whether and 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 4 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 of the document does not fall within the exceptions in 4.1 and should therefore be disclosed, the institution shall immediately inform the third party or Member State of its reasons for disclosure and the date on which the information will be disclosed (which will not be less than one week from the date of notification) and the right to seek interim measures from the European Court of Justice.

Or. en

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9 November 2000 A5-0318/71

AMENDMENT 71

tabled by Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 71) Recital 9

- (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.
- (9) 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. When taking decisions on the disclosure of a document the need to protect some of the interest protected by the exceptions must be weighed against the interest of promoting transparency and public discussion.



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9 November 2000 A5-0318/72

AMENDMENT 72

tabled by Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 72) Recital 12

- (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.
- Whereas, in the light of the principle (12)of equality and the general terms of Articles 1 and 2 of the Treaty on European Union, it is desirable that in future the general principles and limits governing citizens' right of access to documents as provided for by this Regulation should extend to all other institutions and bodies of the European Union,



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9 November 2000 A5-0318/ 73

AMENDMENT 73

tabled by Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 73) Article 1

General principle and beneficiaries

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.

General principle and beneficiaries

- 1. 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.
- 2. The institutions shall 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.



3. This Regulation is without prejudice to the rights of judicial authorities, investigative bodies and Parliaments.

Justification:</*TitreJust>*

The limitation of the rights conferred by the Regulation to natural and legal persons residing or registered in the Union restates the problematic formulation in Article 255 which appears to exclude the rest of the world from the beneficiaries a limitation which seems neither justified nor practical in a globalizing world (paragraph 2). The proposed new paragraph 3 aims at clarifying that the present Regulation deals with public access to documents and, thus, is without prejudice to the rights of judicial authorities, bodies like the European Ombudsman, OLAF, or (the European and national) Parliaments in exercising their respective statutory tasks.

Or. en



9 November 2000 A5-0318/ 74

AMENDMENT 74

tabled by Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 74) Article 2

Scope

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*.

Access to documents from third parties shall be limited to those sent to the institution after the date on which this Regulation becomes applicable.

2. This Regulation shall not apply to documents already published or accessible to the public by other means.

It shall not apply where specific rules on access to documents exists.

Scope of application

1. This Regulation shall apply to all documents held by the institutions, *whether* drawn up by them or received from third parties.

2. This Regulation shall not apply where specific rules on access to documents provide for wider access to information.



3. This Regulation is without prejudice to higher standards of access under national legislation.

Justification:</*TitreJust*>

The main aim of this amendment is to ensure that the Regulation corresponds to the fundamental objectives of the Treaties as defined, in particular, in Article 1 (2), TEU, according to which decisions in the Union shall be taken as openly as possible. This objective would not be achieved if the rights conferred by the Regulation could be limited by unspecified rules outside the Regulation. If the Regulation itself would limit the rights enjoyed by citizens in virtue of domestic legislation it would contradict Article 2, indent 3, TEU, according to which the objective of Union citizenship is to strengthen the protection of the rights and interest of the citizens of its Member States.

Or. en



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9 November 2000 A5-0318/ 75

AMENDMENT 75

tabled by Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 75) Article 3

Definitions

For the purposes of this Regulation:

(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); 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;

Definitions

For the purposes of this Regulation:

(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) which relates to the exercise of public powers or functions;

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- (b) institutions shall mean the European Parliament, the Council and the Commission;
- (c) "European Parliament" shall mean Parliament bodies (and in particular the Bureau and the Conference of Presidents), Parliamentary Committees, the political groups and departments;
- (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 legislator to assist the Council;
- (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;
- (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.

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.

(b) institutions shall mean the European Parliament, the Council and the Commission, their administrative organs, as well as agencies, bodies and institutions subordinate and accountable to them;

A list of the committees set up by the Treaty or by secondary legislation to assist the Council or by the Commission to help it exercise its executive powers shall be drawn up as part of the rules giving effect to this Regulation, as provided for in Article 10.

& /&



Justification:</*TitreJust>*

The casuistic definitions proposed by the Commission are not helpful in clarifying the concepts used. The definition proposed for a document would, in fact, leave an unpredictable margin of discretion to the institutions, to the detriment of legal certainty and the objective of the Regulation, in as far as this is to confer rights. The definitions of the institutions are not only superfluous, but also inappropriate.

Or. en



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9 November 2000 A5-0318/ 76

AMENDMENT 76

tabled by Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 76) Article 4

Exceptions

The institutions may refuse access to documents where disclosure could significantly undermine the protection of:

(a) the public interest and in particular:
 public security,
 defence and international relations,
 relations between and/or with the
 Member States or Community or
 non-Community institutions,
 financial or economic interests,
 monetary stability,
 the stability of the Community's
 legal order,
 court proceedings,

Exceptions

- 1. Public access to documents may be limited on the following grounds:
- (a) access shall be denied where disclosure would be contrary to the protection, under law, of the right to privacy of an individual;

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inspections, investigations and audits, infringement proceedings, including the preparatory stages thereof, the effective functioning of the institutions;

(b) privacy and the individual, and 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;

(c) commercial and industrial secrecy or the economic interests of a specific natural or legal person and in particular:

business and commercial secrets, intellectual and industrial property, industrial, financial, banking and commercial information, including information relating to business relations or contracts, information on costs and tenders in connection with award procedures;

(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.

(b) access may be denied on grounds of public interest where disclosure could significantly undermine public security, monetary stability, equality of parties concerning court proceedings,

presupposing that the interest in disclosure is not greater than that in confidentiality

(c) access may also be denied on grounds of commercial secrecy where this outweighs the public and private interest in disclosure.

(d) access to documents which are of direct and individual concern to a natural or legal person may only be denied when the reasons for confidentiality are exceptionally prevalent.



A5-0318/2000, am. 76, p. 3

Justification:</*TitreJust>*

The list of mandatory - exceptions proposed by the Commission would, if enacted, provide a justification for the exclusion of practically any document from the public domain. Not only is the list far too long and detailed for the purpose of a general Regulation, some of the proposed grounds for confidentiality, as, for instance, the effective functioning of the institutions or the stability of the Community's legal order are simply obscure. Bearing in mind the very nature and way of functioning of the Union it would be unacceptable that documents should be declared confidential on the request of third parties without any justification whatsoever. The amendment to point (d) aims at guaranteeing the rights of someone who can claim a status of being party in a matter.

Or. en



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9 November 2000 A5-0318/ 77

AMENDMENT 77

tabled by

Jan-Kees Wiebenga, Ole Andreasen, Sarah Ludford, Cecilia Malmström, Astrid Thors, Lousewies van der Laan and Graham R. Watson, on behalf of the ELDR Group

Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 77) Article 8

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.

- 1. An applicant who has obtained a document initially produced by a public body may reproduce it in any form if due credit is given to the source of the document.
- 2. An applicant who has obtained a document initially produced by a private entity may reproduce it subject to the applicable intellectual and industrial property laws, applied with due regard for publication of information in the public interest.



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AMENDMENT 78

tabled by

Jan-Kees Wiebenga, Ole Andreasen, Sarah Ludford, Cecilia Malmström, Astrid Thors, Lousewies van der Laan and Graham R. Watson, on behalf of the ELDR Group

Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 78) Article 9

Information and registers

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

Information and registers

- 1. Each institution shall keep a register of all documents drawn up, received and sent by the institution. The register shall be easily accessible to all citizens including via the internet and shall specify whether the document is wholly or partially confidential.
- 2. Each institution shall take the requisite measures to inform the public of the rights they enjoy as a result of this Regulation. The availability of alternative formats of documents shall be mentioned (such as Braille, large print or tape).



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AMENDMENT 79

tabled by

Jan-Kees Wiebenga, Ole Andreasen, Sarah Ludford, Cecilia Malmström, Astrid Thors, Lousewies van der Laan and Graham R. Watson, on behalf of the ELDR Group

Heidi Anneli Hautala, Jan Joost Lagendijk and Gérard Onesta, on behalf of the Verts/ALE Group

REPORT Michael Cashman

A5-0318/2000

Public access to documents of the European Parliament, the Council and the Commission

Proposal for a regulation (COM(2000) 30 - C5-0057/2000 - 2000/0032(COD))

Commission proposal

Amendments by Parliament

(Amendment 79) Article 11b (new)

Article 11b

From the date of entry into force of this Regulation the following shall be repealed.

- (a) Council Decision 93/731/EC of 20 December 1993 on public access to Council documents as amended by Council Decision of 14 August 2000(1),
- (b) Council Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents(2),



- (c) European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents(3),
- (d) Decision of the Executive Committee of 14 December 1993 concerning the confidentiality of certain documents [SCH/Comex(93) 22 rev](4),
- (e) Decision of the Executive Committee of 23rd June 1998 concerning the confidentiality of certain documents [SCH/Comex(98) 17](^c),
- (f) Council Regulation n 354/83 of February concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community(6),
- (g) Article 2 of the Council Decision 2000/645/EC of 17 october 2000 correcting the schengen acquis as contained in Schengen Executive Committee SCH/Com-ex (94) 15rev.().
- (1) OJ L 340, 31.12.1993, p. 43; Decision as 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).
- (2) 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).
- (3) OJ L 263, 25.9.1997, p. 27.
- (4) OJ &, 22.9.2000.
- (5) OJ &, 22.9.2000.
- (b) OJ &
- (⁷) OJ L 272, 25.120.2000, p. 24.

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Commission	n proposal	Amendments by P	arliament

(Amendment 80) Article 3a (new)

Principles on Access

- 1. All documents are accessible unless the limits on access set out in Article 4 of this Regulation apply.
- 2. If an institution wishes to limit access to a document, it should declare whether the document is wholly or partly confidential as soon as the document is produced or received.

