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Committee on Civil Liberties, Justice and Home Affairs

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*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents
(COM(2008/0229) – C7-0123/2008 – 2009/0123(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Michael Cashman

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* alerts the relevant departments to parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act which the draft act seeks to amend includes a third and fourth line identifying respectively the existing act and the provision in that act affected by the amendment. Passages in a provision of an existing act that Parliament wishes to amend, but the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

Proposal for a Regulation of the European Parliament and the Council defining the general principles and limits governing the right of access to documents of the Union institutions, bodies, offices and agencies ("European Freedom of Information Act")

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008/0229)),
- having regard to Article 251(2) and Article 255 (2) of the EC Treaty, pursuant to which the Commission submitted its initial proposal to Parliament (C7-0123/2008),
- having regard to the Communication from the Commission to the European Parliament and Council entitled "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures" (COM(2009)0665) by which the Commission updated within Annex 4 the former legal basis of Article 255 TEC to the new legal basis of Article 15 TFEU,
- having regard to Article 294(3) and Article 15 TFEU,
- having regard to the Charter of Fundamental Rights (the Charter) and in particular Article 42 thereof,
- having regard to Rule 55 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2010),

Amendment 1

Amendment 1

Proposal for a regulation Title

Text proposed by the Commission

Proposal for a regulation of the European Parliament and of the Council **regarding public access to European Parliament, Council and Commission documents**

Amendment

Proposal for a Regulation of the European Parliament and the Council **defining the general principles and limits governing the right of access to documents of the Union institutions, bodies, offices and agencies ("European Freedom of Information Act")**

Justification

The title has to reflect the new nature of the act after the application of the Lisbon Treaty as a totally new framework for democratic participation, visibility, oversight, transparency and freedom of information.

Amendment 2

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) A number of substantive changes are to be made to Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. In the interest of clarity, that Regulation should be recast.

Amendment

(1) Following the entry into force of the TEU and of the TFEU the right to access to documents has been extended to a number of EU institutions, bodies, offices or agencies so that substantial changes are to be made to Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹.

¹ OJ L 145, 31.5.2001, p. 43.

Or. en

Justification

The extent of the Treaty provisions has been considerably enlarged after the entry into force of the Lisbon treaty. It now covers access of a number of EU institutions, bodies, offices and agencies and is not anymore limited to the Parliament, Commission and Council.

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) 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. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the **EU Treaty** and in the Charter of Fundamental Rights of the European Union.

Amendment

(3) 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. Openness contributes to strengthening the principles of democracy **as outlined in the Articles 9-12 TEU**, and **as well as** respect for fundamental rights as laid down in Article 6 **TEU** and in the Charter of Fundamental Rights of the European Union.

Or. en

Justification

Updated in line with the Lisbon Treaty and the new obligatory rights stemming from the Charter of Fundamental Rights enhancing the obligations for an open, efficient European administration, as stated in the Article 298 TFEU.

Amendment 4

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Transparency should also strengthen the principles of good administration in the EU institutions and bodies as provided for by Article 41 of the Charter and by Article 298 TFEU. Internal administrative procedures should be defined accordingly and adequate financial and human resources should be made available to put

the principle of openness into practice.

Or. en

Justification

Updated in line with the Lisbon Treaty and the new obligatory rights stemming from the Charter of Fundamental Rights enhancing the obligations for an open, efficient European administration, as stated in the Article 298 TFEU.

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) The general principles and the limits on grounds of public or private interest governing the public right of access to documents have been laid down in Regulation (EC) No 1049/2001, which became applicable on 3 December 2001. ***deleted***

Or. en

Amendment 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

Amendment

(5) A first assessment of the implementation of Regulation (EC) No 1049/2001 was made in a report published on 30 January 2004. On 9 November 2005, the Commission decided to launch the process leading to the review of Regulation (EC) No 1049/2001. In a Resolution adopted on 4 April 2006, the European Parliament has invited the Commission to submit a proposal amending the Regulation. On 18 April 2007, the Commission published a Green ***deleted***

Amendment 7

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) The purpose of this Regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with *Article 255(2) of the EC Treaty*.

Amendment

(6) The purpose of this Regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and **the** limits on **the grounds of public or private interest which govern** such access in accordance with *Article 15(3) TFEU and taking into account the experience of the initial implementation of Regulation (EC) No 1049/2001, as well as of the relevant Court of Justice of the European Union case-law. In order to bring about greater openness in the work of the institutions, bodies, offices or agencies the right of access should be extended also to documents received by them.*

Or. en

Justification

The change reflects the enhanced scope of the proposed legal act and its framework valid for all EU institutions, bodies and agencies, based on the principle of the fullest possible access to documents.

Amendment 8

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access

Amendment

deleted

also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. Each institution should respect its security rules.

Or. en

Amendment 9

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) This Regulation expresses a common desire to contribute to putting in place a coherent and comprehensive general framework for the protection of classified information originating from the European Union, European Union institutions, or agencies, bodies or offices established by the latter.

Or. en

Justification

A common Inter-institutional framework for classified documents should be set up.

Amendment 10

Proposal for a regulation Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) According to Article 15(3), second subparagraph, TFEU a special treatment should be granted for access to the EU confidential information (EUCI) when this is required on grounds of public or private interest.

Or. en

Amendment 11

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) *The European Parliament and the Council adopted on 6 September 2006 Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters to Community institutions and bodies. With regard to access to documents containing environmental information, this Regulation should be consistent with Regulation (EC) No 1367/2006.*

Amendment

(9) *In compliance with the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters and with the relevant EU legislation a wider right of access should be granted to the documents and information covered by that Convention.*

Or. en

Amendment 12

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) *With regard to the disclosure of personal data, a clear relationship should be established between this Regulation and 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.*

Amendment

(10) *The Union institutions and bodies should treat personal data in a fair and transparent way and in full compliance with the rights of data subjects as defined by Article 16 TFEU as well as by Article 8 of the Charter and by the case-law of the Court of Justice of the European Union.*

Or. en

Justification

A necessary pre-condition for access to documents is data protection.

Amendment 13

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) Clear rules should be established regarding the disclosure of documents originating from the Member States and of documents of third parties which are part of judicial proceedings files or obtained by the institutions by virtue of specific powers of investigation conferred upon them by *EC* law.

Amendment

(11) Clear rules should be established regarding the disclosure of documents originating from the Member States and of documents of third parties which are part of judicial proceedings files or obtained by the institutions by virtue of specific powers of investigation conferred upon them by *EU* law.

Or. en

Amendment 14

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) *Wider access* should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers, while at the same time preserving the effectiveness of the institutions' decision-making process. Such documents should be made directly accessible to the greatest possible extent.

Amendment

(12) *Access* should be granted to documents in cases where ***according to the Treaties*** the institutions are acting in their legislative capacity, including under delegated powers ***according to Article 290 and implementing powers according to Article 291 TFEU as well by Protocol 1 on the role of national parliaments in the EU. Preparatory documents and information should be made directly and timely publicly*** accessible.

Amendment 15

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Legal texts should be drafted in a clear and understandable way and published in the Official Journal of the European Union. Preparatory documents and all related information, including legal opinions and the interinstitutional procedure, should be made easily accessible by citizens on the Internet in a timely manner.

Or. en

Justification

In accordance with the principle of the fullest possible access to documents to the legislative acts as well as delegated acts, direct and timely public access should be granted.

Amendment 16

Proposal for a regulation Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) Better law-making practices, drafting models and techniques as well as technical solutions to track the life-cycle of preparatory documents and to share them with the institutions and bodies associated in the procedure should be agreed by the European Parliament, the Council and the Commission in accordance with Article 295 TFEU and of this Regulation and published in the Official Journal of the European Union.

Or. en

Justification

A necessary pre-condition of an effective public access is better law-making and coordinated actions of the different institutions.

Amendment 17

Proposal for a regulation

Recital 12 c (new)

Text proposed by the Commission

Amendment

(12c) Documents related to non-legislative procedures, such as binding measures as defined in Articles 290 and 291 TFEU, without general scope or measures dealing with internal organisation, administrative or budgetary acts, or of a political nature (such as conclusions, recommendations or resolutions) should be easily accessible in compliance with the principle of good administration outlined in Article 41 of the Charter. For each category of document the institution responsible and, where appropriate, the other institutions associated should make accessible to citizens the workflow of the internal procedures to be followed, which organisational units could be in charge, as well their remit, the deadlines set and the office to be contacted. Special arrangements may be made with the interested parties in the procedure even when public access could not be granted; the institutions should duly take into account the recommendations of the European Ombudsman.

Or. en

Justification

Addition in accordance with the principle of the fullest possible access to documents as well as with the Charter.

Justification

A necessary pre-condition for access to documents is data protection.

Amendment 18

**Proposal for a regulation
Recital 12 d (new)**

Text proposed by the Commission

Amendment

(12d) The Court of Justice of the European Union has specified that the obligation for Member States to be consulted in relation to requests for access to documents originating from them does not give them a right of veto, or the right to invoke national laws or provisions and that the institution receiving a request may refuse access only on the grounds of the exceptions in this Regulation.

Or. en

Justification

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

Amendment 19

**Proposal for a regulation
Recital 12 e (new)**

Text proposed by the Commission

Amendment

(12e) The institutions should agree, in accordance with article 295 TFEU, on common guidelines as to the way in which to register their internal documents, to classify them and to archive them for

historical needs according to the principles outlined in this Regulation.

Or. en

Justification

A necessary pre-condition for an effective public access is better law-making and coordinated actions of the different institutions.

Amendment 20

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) An interinstitutional register of lobbyists and other interested parties is a natural tool for the promotion of openness and transparency in the legislative process.

Or. en

Justification

Self-explanatory.

Amendment 21

Proposal for a regulation
Recital 15

Text proposed by the Commission

Amendment

(15) On account of their highly sensitive content, certain documents should be given special treatment. Arrangements for informing the European Parliament of the content of such documents should be made through interinstitutional agreement.

(15) In order to develop the activities of the institutions in areas which require a degree of confidentiality, it is appropriate to establish a comprehensive security system covering the treatment of EU classified information. In accordance with the democratic principle outlined in Articles 9-12 TEU, the European

Parliament shall have access to EU classified information notably when such access is necessary for the performance of legislative or non- legislative duties conferred by the Treaties.

Or. en

Justification

Common Inter-institutional framework for classified documents should be set up with special provisions regarding the EP in fulfilling its prerogatives as a democratically elected EU body.

Amendment 22

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) In order to bring about greater openness in the work of the institutions, access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions, but also to documents received by them. ***In this context, it is recalled that Declaration No 35 attached to the Final Act of the Treaty of Amsterdam provides that*** a Member State may request the Commission or the Council not to communicate to third parties a document originating from that State without its prior agreement.

Amendment

(16) In order to bring about greater openness in the work of the institutions, access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions, but also to documents received by them. A Member State may request ***the European Parliament***, the Commission or the Council not to communicate to third parties ***outside the institutions themselves*** a document originating from that State without its prior agreement. ***If such a request is not accepted, the institution which received the request should give the reasons for refusing it. According to Article 346 TFEU, no Member State is obliged to supply information the disclosure of which it considers contrary to the essential interests of its security.***

Or. en

Justification

Member States should not have a veto right regarding documents originating from them as the final decision lies with the Institutions. Transmission of documents containing information regarding national security remains out of scope.

Amendment 23

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) In principle, all documents *of* the institutions should be accessible to the public. However, *certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks. In assessing the exceptions, the institutions should take account of the principles in Community legislation concerning the protection of personal data, in all areas of Union activities.*

Amendment

(17) In principle, all documents *drafted or received by* the institutions *and relating to their activities* should be *registered and* accessible to the public. However, *without prejudice to the European Parliament's scrutiny, access to the entire document or to part of it could be postponed.*

Or. en

Justification

Access to certain documents or their parts could be temporarily postponed.

Amendment 24

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) *All rules concerning access to documents of the institutions should be in*

Amendment

(18) *In accordance with Article 15(3) TFEU this Regulation details the general*

conformity with this Regulation.

principles and limits on grounds of public or private interest governing the right of access to documents with which all the other EU rules should comply, subject to special provisions relating to Europol, Eurojust and the European Central Bank, European Investment Bank and the Court of Justice of the European Union.

Or. en

Justification

Documents from the European Central Bank, European Investment Bank and the Court of the European Union should be accessible when exercising their administrative tasks.

Amendment 25

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) *Each* institution should ***take the measures necessary*** to inform the public of the ***provisions in force*** and to train its staff to assist citizens exercising their rights under this Regulation. ***In order to make it easier for citizens to exercise their rights, each institution should provide access to a register of documents.***

Amendment

(20) *The* institution should ***in a consistent and coordinated way*** inform the public of the ***measures adopted to implement this Regulation, creating an internal register of documents and procedures*** and training their staff to assist citizens exercising their rights under this Regulation.

Or. en

Justification

Raising public awareness about the public access to EU documents is an essential tool to fight democratic deficit felt by citizens. It can contribute to a greater public interest and involvement of the public.

Amendment 26

Proposal for a regulation Recital 22

Text proposed by the Commission

Amendment

(22) This Regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies.

deleted

Or. en

Amendment 27

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) By way of a complementing this Regulation, the Commission should propose an instrument, to be adopted by the European Parliament and Council, on common rules governing the re-use of information and documents held by the institutions which implements, mutatis mutandis, the principles outlined in Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public-sector information¹.

¹ *OJ L 345, 31.12.2003, p. 90.*

Or. en

Justification

Public sector bodies should be encouraged to make available for re-use any documents held by them. Public sector bodies should promote and encourage re-use of documents, including official texts of a legislative and administrative nature in those cases where the public sector body has the right to authorize their re-use.

Amendment 28

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) 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,

Amendment

(23) In accordance with **Article 15 (3) TFEU and the principles and rules outlined in this Regulation** each institution lays down specific provisions regarding access to its documents in its rules of procedure.

Or. en

Justification

Article 15(3) TFEU states that each institution, body, office or agency shall ensure that its proceedings are transparent and shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents.

Amendment 29

Proposal for a regulation Article 1 – point a

Text proposed by the Commission

(a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission (hereinafter referred to as «the institutions») **documents provided for in Article 255 of the EC Treaty in such a way as** to grant **the public** the widest possible access to such documents;

Amendment

(a) to define **in accordance with Article 15 of the TFEU**, the principles, conditions and limits on grounds of public or private interest governing the right of access to **documents of the EU institutions, bodies, offices and agencies**, to grant them the widest possible access to such documents;

Or. en

Justification

Article 15 of the TFEU lays down that general principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the EP and the Council.

Amendment 30

Proposal for a regulation

Article 1 – point c

Text proposed by the Commission

(c) to promote good administrative practice *on* access to documents.

Amendment

(c) to promote **transparent and** good administrative practice **in order to improve** access to **their** documents.

Or. en

Amendment 31

Proposal for a regulation

Article 2

Text proposed by the Commission

Beneficiaries *and scope*

1. Any natural or legal person shall have a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation.

2. This Regulation shall apply to all documents held by an institution, namely, documents drawn up or received by it and in its possession concerning a matter relating to the policies, activities and decisions falling within its sphere of responsibility, in all areas of activity of the European Union.

3. Without prejudice to Articles 4 and 9, documents shall be made accessible to the public either following a written application or directly in electronic form

Amendment

Beneficiaries

1. Any natural or legal person **or any association of legal or natural persons** shall have a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation.

deleted

or through a register. In particular, documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with Article 12.

4. Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.

5. This Regulation shall not apply to documents submitted to Courts by parties other than the institutions.

6. Without prejudice to specific rights of access for interested parties established by EC law, documents forming part of the administrative file of an investigation or of proceedings concerning an act of individual scope shall not be accessible to the public until the investigation has been closed or the act has become definitive. Documents containing information gathered or obtained from natural or legal persons by an institution in the framework of such investigations shall not be accessible to the public.

7. This Regulation shall be without prejudice to rights of public access to documents held by the institutions which might follow from instruments of international law or acts of the institutions implementing them.

Or. en

Justification

In line with Article 15(3) TFEU.

Amendment 32

Proposal for a regulation

Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Scope

1. This Regulation shall apply to all documents held by an EU institution, agency, office or body that is to say documents drawn up or received by it and in its possession, in all areas of activity of the European Union.

2. Documents shall be made accessible to the public either in electronic form in the Official Journal of the European Union, or in an official institution's register or following a written application. The documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with Article 12 of this Regulation.

3. This Regulation shall be without prejudice to enhanced rights of public access to documents held by the institutions, agencies, offices or bodies which might follow from instruments of international law or acts of the institutions implementing them or by the Member States' legislation.

Or. en

Justification

The proposed act presents in general a framework for all EU institutions, agencies and bodies.

Amendment 33

Proposal for a regulation Article 3

Text proposed by the Commission

For the purpose of this Regulation:

(a) "document" *means* any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) ***drawn-up by an institution and formally transmitted to one or more recipients or otherwise registered, or received by an institution;*** ***data*** contained in electronic storage, processing and retrieval systems ***are*** documents if ***they*** can be extracted in the form of ***a printout*** or electronic-format ***copy*** using ***the*** available tools for the exploitation of the system;

Amendment

For the purpose of this Regulation:

(a) "document" ***shall mean*** any ***data or*** content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) ***concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility;*** ***information*** contained in electronic storage, processing and retrieval systems ***(including external systems used for the institution's work)*** ***shall constitute a document or*** documents if ***it*** can be extracted in the form of ***one or more printouts*** or electronic-format ***copies*** using ***any reasonably*** available tools for the exploitation of the system. ***An institution that intends to create a new electronic storage system, or to substantially change an existing system, shall evaluate the likely impact on the right of access guaranteed by this Regulation and act so as to promote the objective of transparency. The functions for the retrieval of information stored in electronic storage systems by the institutions shall be adapted in order to satisfy repeated requests from the public which cannot be satisfied using the tools currently available for the exploitation of the system;***

(aa) "classified documents" shall mean documents the disclosure of which could affect the protection of the essential interests of the European Union or of one or more of its Member States, notably in public security, defence and military matters, and which may be partially or totally classified;

(ab) "legislative document" shall in principle mean documents drawn up or received in the course of procedures for the adoption of acts, including under delegated powers, which are legally binding in or for the Member States and for the adoption of which the Treaty provides for the intervention or association of the European Parliament; by way of exception, measures of general scope which according to the Treaties are adopted by the Council and the Commission without associating the European Parliament shall also be considered "legislative";

(ac) "non- legislative documents" shall mean documents drawn up or received in the course of procedures for the adoption of acts of a political nature, such as conclusions, recommendations or resolutions or acts which are legally binding in or for the Member States, but which are not of general scope as are the ones cited in point (ab);

(ad) "administrative document" shall mean documents relating to the institutions' decision-making process or measures dealing with organisational, administrative or budgetary matters which are internal to the institution concerned;

(ae) "archive" shall mean an institution's tool for managing in a structured way the registration of all the institution's documents referring to an ongoing or recently concluded procedure;

(af) "historical archives" shall mean that part of the archives of the institutions which has been selected, on the terms laid down in point a), for permanent preservation;

deleted

(b) "third party" means 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 third countries.

A detailed list of all the categories of the acts covered by the definitions in points (a) to (ad) shall be published in the Official Journal of the European Union and on the Internet sites of the institutions. The institutions shall also agree and publish their common criteria for archiving.

Or. en

Justification

The proposed act should include detailed definitions of different categories of documents.

Amendment 34

Proposal for a regulation Article 3 a (new)

Text proposed by the Commission

Amendment

Categories of classified documents

1. When grounds of public policy exist under Article 4(1), and without prejudice to parliamentary scrutiny at EU and national level, an institution shall classify a document where its disclosure would undermine the protection of the essential interests of the European Union or of one or more of its Member States notably in public security, defence and military matters, and which may be partially or totally classified. Information shall be classified as follows:

(a) "EU TOP SECRET": this classification shall be applied only to information and material the unauthorised disclosure of which could cause exceptionally grave prejudice to the essential interests of the European Union or of one or more of its Member States:

(b) "EU SECRET": this classification shall be applied only to

information and material the unauthorised disclosure of which could seriously harm the essential interests of the European Union or of one or more of its Member States;

(c) "EU CONFIDENTIAL": this classification shall be applied to information and material the unauthorised disclosure of which could harm the essential interests of the European Union or of one or more of its Member States;

(d) "EU RESTRICTED": this classification shall be applied to information and material the unauthorised disclosure of which could be disadvantageous to the interests of the European Union or of one or more of its Member States.

2. Information shall be classified only when necessary. If possible, originators shall specify on classified documents a date or period when the contents may be downgraded or declassified. Otherwise, they shall review the documents at least every five years, in order to ensure that the original classification remains necessary. The classification shall be clearly and correctly indicated, and shall be maintained only for as long as the information requires protection. The responsibility for classifying information and for any subsequent downgrading or declassification rests solely with the originating institution or that which received the classified document from a third party or another institution.

3. Without prejudice to the right of access by other EU institutions, classified documents shall be released to third parties only with the consent of the originator. When more than one institution is involved in the processing of a classified document, the same ground of classification shall be granted and

mediation shall be initiated if the institutions have a different appreciation of the protection to be granted. Documents relating to legislative procedures shall not be classified; implementing measures shall be classified before their adoption insofar as the classification is necessary and aimed at preventing an adverse effect on the measure itself. International agreements dealing with the sharing of confidential information concluded on behalf of the European Union cannot give any right to a third country or international organisation to prevent the European Parliament from having access to confidential information.

4. Applications for access to classified documents under the procedures laid down in Articles 7 and 8 shall be handled only by those persons who have a right to acquaint themselves with those documents. Those persons shall also assess which references to classified documents could be made in the public register.

5. Classified documents shall be recorded in an institution's register or released only with the consent of the originator.

6. An institution which decides to refuse access to a classified document shall give the reasons for its decision in a manner which does not harm the interests protected by the exceptions laid down in Article 4(1).

7. Without prejudice to national parliamentary scrutiny, Member States shall take appropriate measures to ensure that, when handling applications for EU classified documents, the principles set out in this Regulation are respected.

8. The security rules of the institutions concerning classified documents shall be made public.

9. The European Parliament shall have access to classified documents through a

special oversight committee composed of ... members appointed by its Conference of Presidents. These members shall comply with a specific clearance procedure and solemnly swear not to reveal in any way the content of the information accessed. The European Parliament shall establish in its internal rules and in compliance with the obligations conferred by the Treaties, security standards and sanctions equivalent to the ones outlined in the Council and Commission Internal Security rules.

Or. en

Justification

The present Regulation should constitute a framework for registration, classification, access and archiving of classified documents.

Amendment 35

**Proposal for a regulation
Article 4 - title**

Text proposed by the Commission

Amendment

Exceptions

General exceptions to the right of access

Or. en

Amendment 36

**Proposal for a regulation
Article 4 - introductory phrase - paragraph 1**

Text proposed by the Commission

Amendment

1. The institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards:

1. ***Without prejudice to the cases dealt with in Article 5***, the institutions shall refuse access to a document where disclosure would undermine the protection

of the public interest as regards:

Or. en

Amendment 37

Proposal for a regulation

Article 4 - paragraph 1 - point a

Text proposed by the Commission

(a) public security ***including the safety of natural or legal persons;***

Amendment

(a) ***the internal*** public security ***of the European Union or of one or more of its Member States;***

Or. en

Amendment 38

Proposal for a regulation

Article 4 - paragraph 1 - point b a (new)

Text proposed by the Commission

Amendment

(ba) the privacy and the integrity of the individual, in accordance with the Union's legislation regarding the protection of personal data in particular the rules applicable to the institutions as laid down in Article 16 TFEU as well as the principle of transparent and good administrative practice outlined in Article 1(c) of this Regulation as well as in article 298 TFEU and the Article 41 of the Charter;

Or. en

Justification

Access to documents legislation should be implemented in due respect of personal data rights covered by Regulation (EC) No 45/2001 and the recommendations made in this respect by the EDPS.

Amendment 39

Proposal for a regulation

Article 4 - introductory phrase - paragraph 2

Text proposed by the Commission

2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

Amendment

2. The institutions shall refuse access to a document where disclosure would undermine the protection of **public or private interests linked to:**

Or. en

Amendment 40

Proposal for a regulation

Article 4 - paragraph 2 - point c

Text proposed by the Commission

(c) legal advice **and court, arbitration and dispute settlement proceedings;**

Amendment

(c) legal advice **dealing with court proceedings;**

Or. en

Justification

The Court of Justice stated in its judgement in the Turco case (C-39/05 and C-52/05) that disclosure of legal advice outside court proceedings in legislative initiatives increases the transparency and openness of the legislative process and strengthens the democratic rights of European citizens.

Amendment 41

Proposal for a regulation

Article 4 - paragraph 2 - point e

Text proposed by the Commission

(e) the objectivity and impartiality of

Amendment

(e) the objectivity and impartiality of **public procurement** procedures **until a**

selection procedures.

decision has been taken by the contracting institution, or of a Selection Board in proceedings leading to the recruitment of staff until a decision has been taken by appointing authority.

Or. en

Amendment 42

Proposal for a regulation Article 4 - paragraph 3

Text proposed by the Commission

Amendment

3. Access to the following documents shall be refused if their disclosure would seriously undermine the decision-making process of the institutions:

deleted

(a) documents relating to a matter where the decision has not been taken;

(b) documents containing opinions for internal use as part of deliberations and preliminary consultations within the institutions concerned, even after the decision has been taken.

Or. en

Amendment 43

Proposal for a regulation Article 4 - paragraph 4

Text proposed by the Commission

Amendment

4. The exceptions under paragraphs (2) and (3) shall apply unless there is an overriding public interest in disclosure. As regards paragraph 2(a) an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the

4. The exceptions under paragraph (2) shall apply unless there is an overriding public interest in disclosure. When balancing the public interest in disclosure, special weight shall be given to the fact that the requested documents relate to the protection of fundamental rights or the

environment.

right to live in a healthy environment.

Or. en

Justification

Living in a healthy environment is a right as played down in the Article 37 of the Charter, Article 1 of the Aarhus Convention and the different Constitutions of the Member States which include provisions on environmental protection.

Amendment 44

Proposal for a regulation

Article 4 - paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Documents the disclosure of which would pose a risk to environmental protection values, such as the breeding sites of rare species, shall only be disclosed in conformity with Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies¹.

¹*OJ L 264, 25.9.2006, p. 13.*

Or. en

Justification

This amendment supports taking into account the Aarhus Convention and the principles expressed in the Turco judgement (C-39/05 and C-52/05).

Amendment 45

Proposal for a regulation Article 4 – paragraph 5

Text proposed by the Commission

5. Names, titles and functions of public office holders, civil servants and interest representatives in relation with their professional activities shall be disclosed unless, given the particular circumstances, disclosure would adversely affect the persons concerned. Other personal data shall be disclosed in accordance with the conditions regarding lawful processing of such data laid down in EC legislation on the protection of individuals with regard to the processing of personal data.

Amendment

5. Personal data shall not be disclosed if such disclosure would harm the privacy or the integrity of the person concerned. Such harm shall not be deemed to be caused:

- if the data relate solely to the professional activities of the person concerned unless, given the particular circumstances, there is reason to assume that disclosure would adversely affect that person;

- if the data relate solely to a public person unless, given the particular circumstances, there is reason to assume that disclosure would adversely affect that person or other persons connected with him or her;

- if the data have already been published with the consent of the person concerned.

Personal data shall nevertheless be disclosed if an overriding public interest requires disclosure. In such a case, the institution or body concerned shall be required to specify the public interest. It shall give reasons why, in the specific case, the public interest outweighs the interests of the person concerned.

Where an institution or body refuses access to a document on the basis of paragraph 1, it shall consider whether it is possible to grant partial access to that document.

Or. en

Justification

Access to documents legislation should be implemented in due respect of personal data rights covered by Regulation 45/2001 and the recommendations made in this respect by the EDPS.

Amendment 46

Proposal for a regulation Article 4 - paragraph 7

Text proposed by the Commission

7. The exceptions as laid down in this Article shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. ***In the case of documents covered by the exceptions relating to the protection of personal data or commercial interests and in the case of sensitive documents, the exceptions may, if necessary, continue to apply after this period.***

Amendment

7. The exceptions as laid down in this Article ***shall not apply to documents transmitted in the framework of procedures leading to a legislative act or a non-legislative act.*** The exceptions shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years.

Or. en

Justification

In accordance with the extended transparency principle under the new treaties all documents leading to legal acts shall be disclosed.

Amendment 47

Proposal for a regulation Article 4 - paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The exceptions as laid down in this Article shall not be interpreted as referring to information of public interest relating to the beneficiaries of European Union funds that is available within the framework of the financial transparency system.

Or. en

Amendment 48

Proposal for a regulation Article 5 - title

Text proposed by the Commission

Consultations

1. As regards third-party documents, ***the institution shall consult the third party with a view to assessing whether an exception referred to in Article 4 is applicable, unless it is clear that the document shall or shall not be disclosed.***

2. Where an application concerns a *document* originating from a Member State, ***other than documents transmitted in the framework of procedures leading to a legislative act or a non-legislative act of general application***, the authorities of that Member State shall be consulted. The institution holding the document shall disclose it unless the Member State gives reasons for withholding it, based on the exceptions referred to in Article 4 or ***on specific provisions in its own legislation preventing disclosure of the document concerned. The institution shall appreciate the adequacy of reasons given by the Member State insofar as they are based on exceptions laid down in this Regulation.***

Amendment

Consultation of third parties

1. As regards third-party documents, ***they shall be disclosed by the institutions without consulting the originator if it is clear that none of the exceptions in this Regulation are applicable. A third party shall be consulted if that party has requested, when handing in the document, that it be treated in a specific way, with a view to assessing whether an exception provided for in this Regulation is applicable. Documents provided to institutions for the purpose of influencing policy-making should be made public.***

2. Where an application concerns ***one of the following documents*** originating from a Member State:

- which has not been transmitted by the Member State in its capacity as a member of the Council, or

- which does not concern information submitted to the Commission concerning the implementation of EU policies and legislation,

the authorities of that Member State shall be consulted. The institution holding the document shall disclose it unless the Member State gives reasons for withholding it, based on the exceptions referred to in Article 4 or ***in equivalent provisions of its own legislation or objects on the basis of Article 346 (1)(a) TFEU that the disclosure would be contrary to its essential security interests. The institution shall assess the adequacy of reasons given by the Member State.***

3. *Where* a Member State receives a request for a document in its possession, which originates from an institution, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the objectives of this Regulation. The Member State may instead refer the request to the institution.

3. *Without prejudice to national parliamentary scrutiny, where* a Member State receives a request for a document in its possession, which originates from an institution, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the objectives of this Regulation. The Member State may instead refer the request to the institution.

Or. en

Justification

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

Amendment 49

Proposal for a regulation
Article 5a (new)

Text proposed by the Commission

Amendment

Article 5a

Legislative documents

1. In compliance with the democratic principles outlined in Articles 9-12 TEU and with the case-law of the Court of Justice, institutions acting in their legislative capacity in accordance with Article 289 TFEU, including under delegated powers of the Article 290 TFEU, shall grant the widest possible access to their activities, in compliance with the TFEU and Protocol 1. The same shall apply to the Council documents.

2. Documents relating to their legislative programmes, preliminary civil society consultations, impact assessments and any other preparatory documents linked to a legislative procedure shall be accessible on a user-friendly

interinstitutional site and published in a special series of the Official Journal of the European Union.

3. Legislative proposals as well other EU legal texts shall be drafted in a clear and understandable way and the institutions shall agree common drafting guidelines and models improving legal certainty in accordance with the relevant case-law of the Court of Justice of the European Union.

4. During the legislative procedure, each institution or body associated in the decision-making process shall publish its preparatory documents and all related information, including legal opinions, in a special series of the Official Journal of the European Union as well on a common Internet site reproducing the lifecycle of the procedure concerned, in compliance with Article 5 of Protocol 1. This includes also the Agendas of the Council, also when acting at a Working Group level. The same treatment applies to the Commission and the Parliament.

5. Any initiative or documents provided by any interested parties with a view to influencing the decision-making process in any way shall be made public.

6. Once adopted, legislative acts shall be published in the Official Journal of the European Union as provided for by Article 13.

7. By virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, in order not to undermine the attainment of the objectives of this Regulation, the Member States shall seek to ensure that an equivalent level of transparency is granted in relation to national measures implementing acts of the institutions of the European Union, in particular by clearly publishing the references of the national measures. The objective is to give citizens a clear and precise understanding of their rights and

obligations deriving from specific EU rules and enable national courts to ensure that those rights and obligations are respected in accordance with the principles of legal certainty and the protection of individual.

Or. en

Justification

Under the new treaties (TEU and TFEU) the principle of transparency and access to documents should be substantially extended. This applies specially to the legislative procedure and legislative documents and their preparatory documents, including legal opinion of the different institutions, bodies and agencies in accordance with the case-law of the Court of Justice of the European Union. Per analogy the same level of transparency should be provided for national transposition measures

Amendment 50

**Proposal for a regulation
Article 6 - paragraph 2**

Text proposed by the Commission

2. If an application is not sufficiently precise ***or if the requested documents cannot be identified***, the institution shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents. ***The time limits provided for under Articles 7 and 8 shall start to run when the institution has received the requested clarifications.***

Amendment

2. If an application is not sufficiently precise the institution shall ***within 15 working days*** ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents.

Or. en

Justification

An institution has a deadline of 15 working days to ask for clarifications.

Amendment 51

Proposal for a regulation

Article 7 - paragraph 1

Text proposed by the Commission

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. **Within 15 working days** from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 4 of this Article.

Amendment

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. **Within a maximum of 15** working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 4 of this Article.

Or. en

Justification

It should be clear that 15 days is the maximum limit not the rule as an answer has to be given as soon as possible.

Amendment 52

Proposal for a regulation

Article 7 - paragraph 2

Text proposed by the Commission

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended **by 15 working days**, provided that the applicant is notified in advance and that detailed reasons are given.

Amendment

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended by **a maximum of 15 working days**, provided that the applicant is notified in advance and that detailed reasons are given.

Or. en

Justification

It should be clear that 15 days is the maximum limit not the rule as an answer has to be given as soon as possible.

Amendment 53

Proposal for a regulation Article 7 - paragraph 3

Text proposed by the Commission

3. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.

Amendment

3. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, either make a confirmatory application asking the institution to reconsider its position ***or, where the applicant calls into question whether any actual harm will be caused to the relevant interests and/or argues that there is an overriding interest in disclosure, the applicant may request the European Ombudsman to give an independent and objective view on the question of harm and/or overriding public interest. While waiting for the delivery of the European Ombudsman's opinion, the time-limit provided for in paragraph 1 shall be suspended for a maximum of 30 working days.***

Following delivery of the European Ombudsman's opinion, or at the latest at the end of the period of 30 working days, the applicant may, within a maximum of 15 working days, make a confirmatory application asking the institution to reconsider its position.

Or. en

Justification

A possibility should be given to the applicant to refer to the European Ombudsman before the confirmatory application to make the procedure as swift as possible in cases where an overriding interest is at stake and/or damage could be caused. The Ombudsman could assess the question of harm or an overriding public interest and report to the institution and the applicant.

Amendment 54

Proposal for a regulation Article 8 - paragraph 1

Text proposed by the Commission

1. A confirmatory application shall be handled promptly. **Within 30 working** days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her applications:

Amendment

1. A confirmatory application shall be handled promptly. **Within 15 working** days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her.

Or. en

Justification

The period of 30 days is too long and lowers the existing deadline under the existing Regulation for the institutions and other bodies which is 15 days.

Amendment 55

Proposal for a regulation Article 8 - paragraph 2

Text proposed by the Commission

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be **extended by 15 working days**, provided that the applicant is notified in advance and that detailed reasons are given.

Amendment

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be **extended by a maximum of 15 working days**, provided that the applicant is notified in advance and that detailed reasons are given.

Amendment 56

Proposal for a regulation Article 8 - paragraph 4

Text proposed by the Commission

4. Failure by the institution to reply within the prescribed time limit shall be considered as a **negative reply** and shall entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the **EC Treaty**.

Amendment

4. Failure by the institution to reply within the prescribed time limit shall be considered as a **negative definitive reply** and shall entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the **Treaties**.

Or. en

Justification

It should be clear that 15 days is the maximum limit not the rule as an answer has to be given as soon as possible. A failure not to reply should be considered as a definitive and final negative reply.

Amendment 57

Proposal for a regulation Article 9

Text proposed by the Commission

Treatment of sensitive documents
1. Sensitive documents are documents originating from the institutions or the agencies established by them, from Member States, third countries or International Organisations, classified as «TRÈS SECRET/TOP SECRET», «SECRET» or «CONFIDENTIEL» in accordance with the rules of the institution concerned, which protect essential interests of the European Union

Amendment

deleted

or of one or more of its Member States in the areas covered by Article 4(1)(a), notably public security, defence and military matters.

2. Applications for access to sensitive documents under the procedures laid down in Articles 7 and 8 shall be handled only by those persons who have a right to acquaint themselves with those documents. These persons shall also, without prejudice to Article 11(2), assess which references to sensitive documents could be made in the public register.

3. Sensitive documents shall be recorded in the register or released only with the consent of the originator.

4. An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected in Article 4.

5. Member States shall take appropriate measures to ensure that when handling applications for sensitive documents the principles in this Article and Article 4 are respected.

6. The rules of the institutions concerning sensitive documents shall be made public.

7. The Commission and the Council shall inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions.

Or. en

Amendment 58

Proposal for a regulation Article 10 - paragraph 4

Text proposed by the Commission

4. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge.

Amendment

4. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge. ***In the case of printouts or documents in electronic format based on information contained in electronic storage, processing and retrieval systems, the actual cost of searching for and retrieving the document or documents may also be charged to the applicant. No additional charge shall be made if the institution has already produced the document or documents concerned. The applicant shall be informed in advance of the amount and method of calculating any charge.***

Or. en

Justification

An interested party shall participate only in the real costs relating to searching and retrieving of a certain document, and has to be beforehand informed of any possible costs that may occur in connection with the production and sending of documents.

Amendment 59

Proposal for a regulation Article 11 - paragraph 3

Text proposed by the Commission

3. The institutions shall immediately take the measures necessary to establish a register which shall be operational by 3 June 2002.

Amendment

3. Without prejudice to the internal rules of the institutions, the register or system of registers (in the case of multiple registers for the same institution) of each institution shall in particular contain

references to:

- incoming and outgoing documents, as well as the official mail of the institution where such mail falls within the definition set out in Article 4(a),

- agendas and summaries of meetings and documents prepared before meetings for circulation, as well as other documents circulated during meetings.

Each institution shall:

*- by ... *, adopt and publish internal rules concerning the registration of documents,*

*- by... **, ensure that its register is fully operational.*

** Six months from the date of entry into force of this Regulation.*

*** One year from the date of entry into force of this Regulation.*

Or. en

Justification

To guarantee a sound and coherent overview of processed documents the registration system should contain certain obligatory references.

Amendment 60

Proposal for a regulation Article 12 - paragraph 1

Text proposed by the Commission

1. ***Documents*** drawn up or received in the course of procedures for the adoption of EU legislative acts or non-legislative acts of general application ***shall, subject to Articles 4 and 9, be made directly accessible to the public.***

Amendment

1. ***The institutions shall make all documents directly accessible to the public in electronic form or through a register, particularly those*** drawn up or received in the course of procedures for the adoption of EU legislative acts or non-legislative acts of general application.

Or. en

Justification

To guarantee quick and most effective access to documents it is necessary to provide them in electronic form.

Amendment 61

Proposal for a regulation

Article 12 - paragraph 4

Text proposed by the Commission

4. Each institution shall define in its rules of procedure which other categories of documents are directly accessible to the public.

Amendment

4. The institutions shall establish a common interconnected registers of documents, and shall in particular ensure a single point of access for direct access to documents drawn up or received in the course of procedures for the adoption of Community legislative acts or non-legislative acts of general application.

Or. en

Justification

To guarantee a sound overview of documents received by different institutions, bodies and agencies a common register has to be established.

Amendment 62

Proposal for a regulation

Article 13 - introductory part

Text proposed by the Commission

Publication in the Official Journal

1. In addition to the acts referred to in Article 254(1) and (2) of the EC Treaty and the first paragraph of Article 163 of the Euratom Treaty, the following documents shall, subject to Articles 4 and 9 of this Regulation, be published in the Official Journal:

Amendment

1. In accordance with the principles outlined in this Regulation, the institutions shall agree on the structure and presentation of the Official Journal of the European Union by taking into account the pre-existing interinstitutional agreement. In addition to the acts referred to in Article 297 TFEU the following documents shall, subject to Articles 4 of this Regulation, be published in the

Amendment 63

Proposal for a regulation Article 13 - paragraph 1 - point b

Text proposed by the Commission

(b) **common** positions adopted by the Council in accordance with the *procedures* referred to in **Articles 251 and 252 of the EC Treaty** and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;

Amendment

(b) **positions** adopted by the Council in accordance with the *procedure* referred to in **Article 294 TFEU** and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;

Or. en

Amendment 64

Proposal for a regulation Article 13 - paragraph 1 - point f

Text proposed by the Commission

(f) international agreements concluded by the **Community** or in accordance with **Article 24 of the EU Treaty**.

Amendment

(f) international agreements concluded by the **Union** in accordance with **Article 37 TEU as well as Article 218 TFEU**.

Or. en

Amendment 65

Proposal for a regulation Article 13 - paragraph 3

Text proposed by the Commission

3. Each institution may in its rules of procedure establish which further

Amendment

3. Other documents to be published in the Official Journal of the European Union

documents shall be published in the Official Journal.

shall be determined by a joint decision of the European Parliament and of the Council, on a proposal by the Management Committee of the Publication Office of the EU.

Or. en

Justification

An enhanced principle of transparency has to be reflected in the number of documents published in the Official Journal.

Amendment 66

Proposal for a regulation
Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Information Officer

1. Each directorate-general within each institution shall appoint an Information Officer who shall be responsible for ensuring compliance with the provisions of this Regulation and good administrative practice within that directorate-general.

2. The Information Officer shall determine which information it is expedient to give the public concerning:

- (a) the implementation of this Regulation;**
- (b) good practice;**

and shall ensure the dissemination of that information in an appropriate form and manner.

3. The Information Officer shall assess whether the services within his or her directorate-general follow good practice.

4. The Information Officer may redirect the person who requires the information to another directorate if the information in question falls outside its remit and

within the remit of a different directorate within the same institution, provided that he or she is in possession of such information.

Or. en

Justification

To guarantee compliance with the provisions of the proposed act ab initio an internal officer for transparency and good administrative practice should be named in each directorate-general.

Amendment 67

Proposal for a regulation
Article 14 b (new)

Text proposed by the Commission

Amendment

Article 14b

Principle of good administration

The institutions shall on the basis of the code of good administrative behaviour adopt and publish general guidelines on the scope of the obligations of confidentiality and professional secrecy set out in Article 321 TFEU, the obligations arising from sound and transparent administration and the protection of personal data in accordance with Regulation (EC) No 45/2001. These guidelines shall also define the sanctions applicable in the event of failure to comply with this Regulation in accordance with the Staff Regulations of Officials of the European Communities, the Conditions of Employment of other servants of the European Communities and in the institutions' internal rules.

Or. en

Justification

An open, efficient and independent European administration, as mentioned in Article 298

TFEU, has to be based on high standards of professional behaviour, including personal data protection, and appropriate sanctions have to be provided if a violation occurs.

Amendment 68

Proposal for a regulation

Article 15 - title

Text proposed by the Commission

Amendment

Administrative practice in the institutions

Administrative transparency practice in the institutions

Or. en

Justification

It should be clearly stated that the provision rely to transparency issues.

Amendment 69

Proposal for a regulation

Article 15 - paragraph 1

Text proposed by the Commission

Amendment

1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.

1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation. ***The institutions shall organise and maintain the information in their possession in such a way that the public may be granted access to the information without additional effort.***

Or. en

Justification

Updated in line with the Lisbon Treaty and the new obligatory rights stemming from the Charter of Fundamental Rights enhancing transparency and good administration. It would also mean a step in the direction of a genuine freedom of information act of the EU, while serving, simultaneously, the objective that the development of information technology should make it easier to exercise the right of access and not reduce the amount of information available to the public.

Amendment 70

Proposal for a regulation Article 15 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In order to ensure that the principles of transparency and good administration are effectively applied, the institutions concerned shall agree on common implementing rules and procedures on the presentation, classification, declassification, registration and dissemination of documents.

In order to facilitate a genuine debate among the players involved in the decision-making process and without prejudice to the principle of transparency, the institutions shall make clear to the citizens if and when, during the specific phases of decision-making process, direct access to the documents may not yet be granted. These limitations will not apply once that decision has been taken.

Or. en

Justification

Updated in line with the Lisbon Treaty and the new obligatory rights stemming from the Charter of Fundamental Rights enhancing transparency.

Amendment 71

Proposal for a regulation Article 15 - paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The institutions shall inform citizens, in a fair and transparent way, about their organisational chart by indicating the remit of their internal units, the internal

workflow and indicative deadlines of the procedures falling within their remit, to which services may citizens refer to obtain support, information or administrative redress.

Or. en

Justification

Updated in line with the Lisbon Treaty and the new obligatory rights stemming from the Charter of Fundamental Rights enhancing the obligations for an open, efficient European administration accessible to citizens , as stated in the Articles 10 and 298 TFEU.

Amendment 72

**Proposal for a regulation
Article 15 - paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Information relating to the EU budget, its implementation and beneficiaries of EU funds and grants shall be public and accessible to citizens.

Such information shall also be accessible via a specific website and database, searchable on the basis of the above information, dealing with financial transparency in the EU.

Or. en

Justification

An important aspect of transparency is the visibility of the budgetary procedure and the implementation of the EU budget.

Amendment 73

Proposal for a regulation Article 16

Text proposed by the Commission

This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to **obtain copies of documents or to** reproduce or exploit released documents.

Amendment

This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's **right to reproduce** or exploit released documents.

Or. en

Amendment 74

Proposal for a regulation Article 17 - heading (new)

Text proposed by the Commission

Amendment

Title V - Final provisions

Or. en

Amendment 75

Proposal for a regulation Article 17 - paragraph 1a (new)

Text proposed by the Commission

Amendment

1a. At the latest by, the Commission shall publish a report on the implementation of the principles of this Regulation and shall make recommendations, including, if appropriate, proposals for the revision of this Regulation which are necessitated by changes in the current situation and an action programme of measures to be taken by the institutions.

Or. en

Justification

The implementation of the legal act requires a post facto evaluation and an integral report including possible revision proposals.