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from : General Secretariat of the Council
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Subject: Summary of the plenary session of the European Parliament, held in Strasbourg on 15 December 2009
Oral questions O-122/09 and 123/09 - Improvement needed in the legal framework for access to documents following the entry into force of the Lisbon Treaty

Mr Cashman (S&D, UK), author of the oral questions, welcomed the presence of Ms Wallström and Ms Malmström, who were both involved in the file since 1999. He recalled the compromise reached in 2001 which he qualified as historic. Following that, the Parliament had repeatedly called for a revision, but the Commission proposal of 2008 did not go far enough. There were even concerns that it would be a backward step on certain points. Mr Cashman recalled the amendments voted by the LIBE Committee and the plenary in March and considered that the entry into force of the Lisbon Treaty made a new proposal necessary.

For the Council, Ms Malmström, Minister for European Affairs, President-in-Office, underlined that transparency was a key issue for the Swedish Presidency. She stated that she had met Ms Wallis and Ms Wallström in the morning at a meeting of the Interinstitutional Committee on

Access to Documents, which had not met for two years, and they had agreed to meet more regularly in the future. She acknowledged the need to take into account the changes brought about by the new Article 15(3) TFEU.

For the Commission, Vice-President Wallström delivered the speech set out in the Annex.

For the political groups, the following speakers took the floor:

Ms Sommer (EPP, DE) deplored the fact that Mr Cashman had presented a draft resolution on the issue, which, in her view, was contrary to an agreement between the political groups. She doubted the admissibility of a resolution, given the fact that it was a codecision file. Furthermore, she regretted the fact that the draft resolution did not contain a commitment to the need for confidentiality, which was sometimes required by third parties, or a reference to the possibility of intermediate solutions, such as ex-post transparency. In her opinion, the right to privacy was not respected either. Consequently, she suggested rejecting the draft resolution and continuing discussions on the basis of the replies given by the Council and the Commission, which she thought were good replies.

Ms Blinkeviciute (S&D, LT) agreed with Mr Cashman that further discussions were needed. She considered that the amendments voted in March should serve as a basis and invited the Commission to present an amended proposal as soon as possible.

Ms Wallis (ALDE, UK) was surprised by the statement made by Ms Sommer, considering that all political groups had agreed that a draft resolution would be tabled. After the entry into force of the Lisbon Treaty, she wanted to go forward with transparency, welcoming the meeting of the Interinstitutional Committee on Access to Documents, which had agreed to meet again in 6 months and meet regularly after that.

Mr Ziobro (ECR, PL) recalled that in the past the institutions had been much criticised for their democratic deficit, and called for scrutiny of all EU decisions. He suggested that all attempts by lobby groups to influence decision-making should be documented.

Mr Tavares (GUE/NGL, PT) considered that trust was at the centre of the debate - if the EU wanted citizens to trust it, it also had to trust its citizens by opening up the decision-making process. There was also a large amount of knowledge in society which should not be wasted.

For Mr Dartmouth (EFD, UK), the EU had a reputation for taking decisions furtively. In his view, the Commission proposal partly restricted access to documents which were currently public. He added that a lack of transparency and public scrutiny in decision-making also led to bad decisions.

As an individual speaker, Mr Iacolino (EPP, IT) agreed with previous speakers that the Regulation on access to documents needed an update, but considered that Mr Cashman's position went beyond reasonable limits and covered documents which did not have to be revealed. He suggested balanced access rules, in line with citizens' needs and compatible with proper decision-making. Mr de Jong (GUE/NGL, NL) and Ms Hautala (Greens/EFA, FI) supported the position of the rapporteur, while Mr Mölzer (NI, AT) regretted that the designation of the President of the Council and of the High Representative for the Common Foreign and Security Policy had been examples of opacity concerning who took which decision based on what criteria.

In her conclusion for the Council, Ms Malmström recalled that the Council was awaiting an opinion from the Parliament before it could proceed. Until then, much could be done, for instance by way of meetings such as the meeting that morning, which had discussed, inter alia, improvements in the way the legislative process was presented on the internet.

For the Commission, Ms Wallström explained that the current proposal could be expanded to bring it into line with the new Treaty. She invited the Parliament to finalise its first reading, in order to be able to engage in further negotiations. She considered that a number of the issues raised by the Parliament were outside the scope of the proposal and could be addressed separately. She also mentioned her initiative for an openness action plan.

During the final vote on Thursday, 17 December 2009, a joint motion for a resolution proposed by the S&D, ALDE, Greens/EFA, ECR and GUE/NGL groups (RC-B7-0191/2009) was adopted with 341 votes in favour, 206 against and 20 abstentions.

**Speech by Ms Margot Wallström, Vice-President of the Commission
before the European Parliament
Brussels, 15 December 2009**

Mr President, honourable Members, if I may first turn to Mr Cashman. I think this is the last possibility or opportunity that I will have to say thank you to you. You are indeed the face of the fight for this particular regulation and for openness and transparency in Parliament. You have become the face, the symbol and the advocate of it.

I also think that we have a great deal of credibility, being Swedish, both Cecilia Malmström and myself and I do not think that people will doubt that we will continue to fight for openness and transparency. At the same time, we have had our rows because we also play different roles and sometimes we have to be very realistic about what we can achieve and we have to fight our corners in each institution. That is not always easy. I think the whole political climate has also changed and the political balance has changed and that has affected our discussions on these issues.

But our starting point, I would say, is absolutely the same and we also state that this particular regulation on access to documents has served us very well. Over the years this has been an excellent tool that we also want to be used by more than the lobbyists and those who are paid for looking at all the documents. We want the general public and journalists to be able to use it and have full access to documents. That is my starting point. I know that I share this view, as you could hear, with the Minister.

I think also the Swedish Presidency was a golden opportunity to move this issue forward. Now I really want to thank Parliament for the opportunity to have this debate on transparency and the new Lisbon Treaty because it places more emphasis on openness and what is called participatory democracy. We all agree that this is a most welcome development.

The concrete question on the table today is: What measures will the Commission take with regards to the revision of Regulation (EC) No 1049/2001?

As you know, with the Lisbon Treaty, the public right of access to documents has been extended, as we heard the minister saying, to documents of all institutions, bodies, offices and agencies of the Union. Although there are some restrictions for the Court of Justice, the European Central Bank and the European Investment Bank for natural reasons.

Concerning the review of Regulation (EC) No 1049/2001, I want to point out that the new legal base, Article 15(3) of the Treaty on the Functioning of the European Union, is very similar to the former Article 255 and the main difference is the extension of the institutional scope.

This issue was addressed by the Commission in our Communication on 2 December this year. This was aimed at aligning pending proposals for secondary legislation to the new Treaty. (Some of you here may know it under the EU jargon as the ‘omnibus act’ – let’s forget that the minute I have said it!)

It means that either of the legislators can now introduce an amendment extending the scope of the Regulation to the other bodies and institutions. This is also to let the Council know that this has been presented by the Commission and adopted by the Commission.

Further progress in the legislative process leading to the adoption of an amended Regulation (EC) No 1049/2001 is in the hands of the legislators: Parliament and Council. We are still in the stage of the first reading. We do not have a legislative resolution and we do not have the position of the new Parliament. Of course the Commission will go on to contribute to reaching an agreement – as in other legislative processes.

The Lisbon Treaty lays down a legal framework for participatory democracy. From the Commission’s side we have already taken a number of initiatives aimed at improving public consultation and participation on proposed new policies. For example, we will assess the Commission’s consultation guidelines against the new provisions of the Treaty and decide whether adjustments are necessary to further improve them, and we have already started the work on the citizens’ initiative by launching a public consultation, to listen to the citizens and the stakeholders before presenting a proposal.

The great importance of the citizens' initiative was also recognised by the European Council last week. And the incoming Spanish Presidency, I have understood, has put this very high on the agenda. They want rapid delivery.

This morning, as we have already heard, the Interinstitutional Committee on Public Access to Documents met at the invitation of the Swedish Presidency. The task of this group is to examine best practice, address possible conflicts and discuss further developments on public access to documents.

So we decided together that we will have an 'Openness' web portal, we will have complementarity of our institutions' public registers; we will have our respective IT services sit down and coordinate their access efforts and we will now consider the impact on access to documents when our institutions create or change electronic storage systems.

I know that this is the time of year when you write wish lists. But I think when it comes to openness and transparency, you should not rely on Santa Claus. I think it is really up to us to deliver now: Parliament, Council and Commission. Real concrete and direct delivery. I think we have already started and we have to continue on this track so I am looking forward to our debate.