

| REGULATION (EC) No 1049/2001 | PROPOSAL OF THE COMMISSION (COM(2008)0229) and COM(2011)0137) | EP DRAFT REPORT (COM(2008)0229 – C6-0184/2008 – 2008/0090(COD)) |
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| Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents | Proposal for a Regulation of the European Parliament and of the Council <i>regarding public access to European Parliament, Council and Commission documents</i> | Amendment 1 Proposal for a Regulation of the European Parliament and the Council <i>defining the general principles and limits governing the right of access to documents of the European Union institutions, bodies, offices and agencies</i> |
| THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | |
| Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof, | Having regard to the Treaty <i>establishing the European Community</i> , and in particular <i>Article 255(2)</i> thereof, | Having regard to the Treaty <i>on the Functioning of the European Union</i> , and in particular <i>Article 15(3)</i> thereof, |
| Having regard to the proposal from the Commission(1) | Having regard to the proposal from the Commission ¹ , | |
| Acting in accordance with the procedure referred to in Article 251 of the Treaty(2), | Acting in accordance with the procedure laid down in <i>Article 251</i> of the Treaty ² , | Acting in accordance with the procedure laid down in <i>Article 294</i> of the Treaty, |
| Whereas: | Whereas: | |
| (1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the | <i>(1) A number of substantive changes are to be made to Regulation (EC) No 1049/2001 of 30 May 2001</i> | <i>Amendment 2</i> <i>(1) Following the entry into force of the TEU and of the TFEU the right to access to documents has</i> |

¹ OJ C , , p. .

² OJ C , , p. .

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| Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. | <i>regarding public access to European Parliament, Council and Commission documents³. In the interest of clarity, that Regulation should be recast.</i> | <i>been extended to a number of European Union 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, whereby the experience of the initial implementation of the mentioned Regulation as well as of the relevant case-law of the Court of Justice of the European Union should be taken into account.</i> ¹ OJ L 145, 31.5.2001, p. 43. |
| (2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. 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. | (2) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. | |
| (3) The conclusions of the European Council meetings held at Birmingham, Edinburgh and Copenhagen stressed the need to introduce greater transparency into the work of the Union institutions. This | (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 | Amendment 3 (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 |

³ OJ L 145, 31.5.2001, p. 43.

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| Regulation consolidates the initiatives that the institutions have already taken with a view to improving the transparency of the decision-making process. | 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. | accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy as outlined in Articles 9 to 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. |
| | | <i>Amendment 4 Recital 3a new (3a) Transparency should also strengthen the principles of good administration in the European Union institutions, bodies, offices and agencies 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.</i> |
| (4) 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. | <i>(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 2001⁴.</i> | Amendment 5 deleted |
| (5) Since the question of access to | <i>(5) A first assessment of the implementation of</i> | Amendment 6 |

⁴ OJ L 145, 31.5.2001, p. 43.

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| documents is not covered by provisions of the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, the European Parliament, the Council and the Commission should, in accordance with Declaration No 41 attached to the Final Act of the Treaty of Amsterdam, draw guidance from this Regulation as regards documents concerning the activities covered by those two Treaties. | <i>Regulation (EC) No 1049/2001 was made in a report published on 30 January 2004⁵. 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 Regulation⁶. On 18 April 2007, the Commission published a Green Paper on the review of the Regulation⁷ and launched a public consultation.</i> | deleted |
| (6) 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. | (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 <i>with Article 255(2) of the EC Treaty.</i> | Amendment 7 (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 <i>the</i> limits on <i>the grounds of public or private interest which govern</i> such access in accordance with <i>Article 15(3) TFEU and with which all the other European Union rules should comply, subject to special provisions relating to the Court of Justice of the European Union, the European Central Bank and the European Investment Bank. In order to bring about greater openness in the work of the institutions, bodies, offices or agencies the</i> |

⁵ COM(2004) 45.

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⁷ COM(2007) 185.

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| | | <i>right of access should be extended also to documents received by them</i> |
| (7) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. Each institution should respect its security rules. | (7) Since the question of access to documents is not covered by provisions of the Treaty establishing the European Atomic Energy Community, the European Parliament, the Council and the Commission should, in accordance with Declaration No 41 attached to the Final Act of the Treaty of Amsterdam, draw guidance from this Regulation as regards documents concerning the activities covered by that Treaty. | |
| (8) In order to ensure the full application of this Regulation to all activities of the Union, all agencies established by the institutions should apply the principles laid down in this Regulation. | (8) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. <i>Each institution should respect its security rules.</i> | Amendment 8 deleted |
| | | Amendment 9 <i>Recital 8a (new)</i> <i>(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, or European Union institutions, bodies, offices or agencies. In accordance with the democratic principle outlined in Articles 9 to 12 TEU, the European Parliament as the citizens' representative shall have access to EU classified information.</i> |

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| <p>(9) 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.</p> | <p>(9) <i>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 bodies⁸. With regard to access to documents containing environmental information, this Regulation should be consistent with Regulation (EC) No 1367/2006.</i></p> | <p>Amendment 10 (9) <i>In compliance with</i> the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters <i>and with the relevant European Union legislation a wider right of access should be granted to documents and information covered by that Convention.</i></p> |
| <p>(10) 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.</p> | <p>(10) <i>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 data⁹.</i></p> | <p>Amendment 11 (10) <i>The European Union institutions, bodies, offices or agencies 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, the relevant European Union legislation and by the case-law of the Court of Justice of the European Union.</i></p> |

⁸ OJ L 264 , 25.9.2006, p. 13.

⁹ OJ L 8, 12.1.2001, p. 1.

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| <p>(11) 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.</p> | <p>(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 <i>EC</i> law.</p> | <p>Amendment 12 (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, <i>bodies, offices or agencies</i> by virtue of specific powers of investigation conferred upon them by <i>European Union</i> law.</p> |
| <p>(12) All rules concerning access to documents of the institutions should be in conformity with this Regulation.</p> | <p><i>(12) Wider</i> access should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers, <i>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.</i></p> | <p>Amendment 13 (12) Access should be granted to documents in cases where <i>according to the Treaties</i> the institutions are acting in their legislative capacity, including under delegated powers <i>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 accessible to the public on the Internet.</i></p> |
| | | <p>Amendment 14 <i>Recital 12a(new)</i> <i>(12a) Legal texts should be drafted in a</i></p> |

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| | | <i>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 information on the different stages of the interinstitutional procedure, should be made easily accessible by citizens on the Internet in a timely manner.</i> |
| | | <i>Amendment 15 Recital 12b(new) (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, offices or agencies 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.</i> |
| | | <i>Amendment 16 Recital 12c (new) (12c) Documents related to non- legislative procedures, such as binding measures or measures dealing with internal organisation, administrative or budgetary acts, or of a political nature (such as</i> |

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| | | <p><i>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, body, office or agency responsible 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 citizens even when public access could not be granted. The institutions, bodies, offices or agencies shall duly take into account the recommendations of the European Ombudsman.</i></p> |
| | | <p><i>Amendment 17 Recital 12d (new) (12d) The Court of Justice of the European Union has specified that the requirement 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, body, office or agency receiving a request may refuse access only on the grounds of the exceptions in this Regulation.</i></p> |

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| | | <p><i>Amendment 18</i> Recital 12e (new) <i>(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.</i></p> |
| <p>(13) In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, with the additional possibility of court proceedings or complaints to the Ombudsman.</p> | <p>(13) Transparency in the legislative process is of utmost importance for citizens. Therefore, institutions should actively disseminate documents, which are part of the legislative process. Active dissemination of documents should also be encouraged in other fields.</p> | |
| | | <p><i>Amendment 19</i> Recital 13a (new) <i>(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.</i></p> |
| <p>(14) Each institution should take the measures necessary to inform the public of the new 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.</p> | <p>(14) In order to ensure the full application of this Regulation to all activities of the Union, all agencies established by the institutions should apply the principles laid down in this Regulation.</p> | |

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| <p>(15) Even though it is neither the object nor the effect of this Regulation to amend national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, Member States should take care not to hamper the proper application of this Regulation and should respect the security rules of the institutions.</p> | <p><i>(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.</i></p> | <p><i>Amendment 20 deleted</i></p> |
| <p>(16) This Regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies.</p> | <p>(16) In order to bring about greater openness in the work of the institutions, access to documents should be <i>granted by the European Parliament, the Council and the Commission</i> not only to documents drawn up <i>by the institutions</i>, but also to documents received by them. <i>In this context, it is recalled that Declaration No 35 attached to the Final Act of the Treaty of Amsterdam provides that</i> a Member State may request <i>the Commission or the Council</i> not to communicate to third parties a document originating from that State without its prior agreement.</p> | <p>Amendment 21</p> <p>(16) In order to bring about greater openness in the work of the institutions, <i>bodies, offices or agencies</i>, access to documents should be granted not only to documents drawn up <i>by them</i>, but also to documents received by them. A Member State may request <i>the institutions, bodies, offices or agencies</i> not to communicate to third parties <i>outside the institutions, bodies, offices or agencies themselves</i> a document originating from that State without its prior agreement. <i>If such a request is not accepted, the institution, body, office or agency 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</i></p> |

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| | | <i>of its security.</i> |
| <p>(17) 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. Council Decision 93/731/EC of 20 December 1993 on public access to Council documents(3), Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents(4), European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents(5), and the rules on confidentiality of Schengen documents should therefore, if necessary, be modified or be repealed,</p> | <p>(17) In principle, all documents <i>of</i> the institutions should be accessible to the public. However, <i>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.</i></p> | <p>Amendment 22 (17) In principle, all documents <i>drafted or received by</i> the institutions, <i>bodies, offices or agencies and relating to their activities</i> should be <i>registered and</i> accessible to the public. However, <i>without prejudice to the European Parliament's scrutiny, access to the entire document or to part of it could be postponed.</i></p> |
| | <p><i>(18) All rules concerning access to documents of the institutions should be in conformity with this Regulation.</i></p> | <p><i>Amendment 23 deleted</i></p> |
| | <p>(19) In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, <i>with the additional possibility of court proceedings or complaints to the Ombudsman.</i></p> | |
| | <p><i>(20) Each institution should take the measures necessary to inform the public of the provisions in</i></p> | <p>Amendment 24 (20) <i>The institutions, bodies, offices or agencies should in a consistent and</i></p> |

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| | <i>force</i> and to train its staff to assist citizens exercising their rights under this Regulation. <i>In order to make it easier for citizens to exercise their rights, each institution should provide access to a register of documents.</i> | <i>coordinated way</i> inform the public of the <i>measures adopted to implement this Regulation, creating an internal register of documents and procedures</i> and training their staff to assist citizens exercising their rights under this Regulation. |
| | (21) Even though it is neither the object nor the effect of this Regulation to amend national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, Member States should take care not to hamper <i>the proper application of this Regulation and should respect the security rules of the institutions.</i> | |
| | <i>(22) This Regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies.</i> | Amendment 25 <i>deleted</i> |
| | | Amendment 26 Recital <i>(22a) new</i> <i>(22a)By way of 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, bodies, offices or agencies which implements, mutatis mutandis, the principles outlined in Directive 2003/98/EC</i> |

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| | | <i>of the European Parliament and of the Council of 17 November 2003 on the re-use of public-sector information¹.</i> |
| | (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 27 (23) In accordance with Article 15(3) TFEU and the principles and rules outlined in this Regulation each institution, body, office or agency lays down specific provisions regarding access to its documents in its rules of procedure, also as far as administrative tasks are concerned , |
| HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | |
| Article 1 | Article 1 | |
| Purpose | Purpose | |
| The purpose of this Regulation is: | The purpose of this Regulation is: | |
| (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 ensure the widest possible access to documents, | (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to documents of the institutions of the EU, as defined in Article 3(c), provided for in Article 15(3) of the TFEU in such a way as to grant the public the widest possible access to such documents; | Amendment 28 (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 European Union institutions, bodies, offices and agencies , to grant them the widest possible access to such documents; |

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| (b) to establish rules ensuring the easiest possible exercise of this right, and | (b) to establish rules ensuring the easiest possible exercise of this right | |
| (c) to promote good administrative practice on access to documents. | (c) to promote good administrative practice <i>on</i> access to documents. | Amendment 29 (c) to promote <i>transparent and</i> good administrative practice <i>in order to improve</i> access to <i>their</i> documents. |
| Article 2 | Article 2 | Amendment 30 |
| Beneficiaries and scope | Beneficiaries <i>and scope</i> | Beneficiaries |
| 1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation. | 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. | 1. Any natural or legal person <i>or any association of legal or natural persons</i> shall have a right of access to documents of the institutions, <i>bodies, offices or agencies</i> , subject to the principles, conditions and limits defined in this Regulation. |
| 2. The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State. | 2. This Regulation shall apply to all documents held by an institution, as defined in Article 3(c), that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the EU. As regards the Court of Justice of the European Union, the ECB and the | 2. Persons who are Members of or who work for a European Union institution, body, office or agency should use in principle the internal means available to them when looking for a document, unless they are acting as citizens without any |

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| | <i>EIB, this Regulation shall apply only when they exercise their administrative tasks.</i> CHANGE BY COM(2011)0137 | <i>connection with their professional duties.</i> |
| 3. This Regulation shall apply to all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union. | <i>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 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.</i> | <i>3. This Regulation shall be without prejudice to enhanced rights of public access to documents held by the institutions, bodies, offices or agencies which might follow from instruments of international law or acts of the institutions implementing them or by the Member States' legislation</i> |
| 4. 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 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. | <i>4. Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.</i> | |
| 5. Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article. | <i>5. This Regulation shall not apply to documents submitted to Courts by parties other than the institutions.</i> | |
| 6. This Regulation shall be without prejudice to rights of public access to documents held by the institutions which might follow from instruments of | <i>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</i> | |

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| international law or acts of the institutions implementing them. | <i>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.</i> | |
| | <i>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.</i> | |
| | | Amendment 31 Article 2a (new) <i>1. This Regulation shall apply to all documents held by a European Union 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.</i> |
| | | <i>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 register of an institution, body, office or agency, 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</i> |

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| | | Regulation. |
| | | 3. This Regulation shall be without prejudice to enhanced rights of public access to documents held by the institutions, bodies, offices or agencies which might follow from instruments of international law or acts of the institutions implementing them or by the Member States' legislation. |
| Article 3 | Article 3 | Amendment 32 |
| Definitions | Definitions | |
| <p>For the purpose of this Regulation:</p> <p>(a) "document" shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility;</p> | <p>For the purpose of this Regulation:</p> <p>(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 ;</p> | <p>For the purpose of this Regulation:</p> <p>(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 sphere of responsibility of a European Union institution, body, office or agency; information contained in electronic storage, processing and retrieval systems (including external systems used for the work of an institution, body, office or agency) shall constitute a document or documents if it can be extracted in the form of one or more</p> |

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| | | <i>printouts</i> or electronic-format <i>copies</i> using <i>any reasonably</i> available tools for the exploitation of the system. <i>An institution, body, office or agency 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 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;</i> |
| | | <i>(aa) "classified documents" shall mean documents which have been totally or partially classified in accordance with Article 3a(1) of this Regulation;</i> |
| | | <i>(ab) "legislative act" shall for the purposes of this Regulation include documents drawn up or received in the course of legislative procedures for the adoption of legislative acts, including under delegated and implementing powers, and acts which are legally binding in or for the Member States;</i> |
| | | <i>(ac)"administrative task" shall mean measures dealing with organisational,</i> |

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| | | <i>administrative or budgetary matters which are internal to the institution, body, office or agency concerned;</i> |
| | | <i>(ad) "archive system" shall mean a tool of the institutions, bodies, offices and agencies for managing in a structured way the filing of all their documents referring to an ongoing or recently concluded procedure;</i> |
| | | <i>(ae) "historical archives" shall mean that part of the archives of the institutions, bodies, offices or agencies which has been selected, on the terms laid down in point (a), for permanent preservation;</i> |
| (b) "third party" shall mean any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and third countries. | (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. | |
| | (c) 'institutions' shall mean institutions, bodies, offices and agencies of the EU, including the EEAS. CHANGE BY COM(2011)0137 | |
| | | <i>A detailed list of all the categories of the acts covered by the definitions in points (a) to (ac) shall be published in the Official Journal of the European Union and on the Internet sites of the institutions, bodies,</i> |

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| | | <i>offices or agencies. They shall also agree and publish their common criteria for archiving.</i> |
| | | Amendment 33 Article 3a Categories of classified documents |
| | | 1. When grounds of public policy under Article 4(1) exist, and without prejudice to parliamentary scrutiny at EU and national level, an institution, body, office or agency 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 |

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| | | <i>Member States;</i> |
| | | <i>(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;</i> |
| | | <i>(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.</i> |
| | | <i>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, body, office or agency or that which received the classified document from a third party or</i> |

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| | | <i>another institution, body, office or agency.</i> |
| | | <i>3. Without prejudice to the right of access by other European Union institutions, bodies, offices or agencies classified documents shall be released to third parties only with the consent of the originator. When more than one institution, body, office or agency is involved in the processing of a classified document, the same ground of classification shall be granted and mediation shall be initiated if they 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.</i> |
| | | <i>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</i> |

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| | | <i>to classified documents could be made in the public register.</i> |
| | | <i>5. Classified documents shall be recorded in a register of the institution, body, office or agency, or released only with the consent of the originator.</i> |
| | | <i>6. An institution, body, office or agency 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).</i> |
| | | <i>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.</i> |
| | | <i>8. The security rules of the institutions, bodies, offices or agencies concerning classified documents shall be made public.</i> |
| | | <i>9. The European Parliament shall have access to classified documents through a special oversight committee composed of 7 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</i> |

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| | | <i>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.</i> |
| Article 4 | Article 4 | <i>Amendment 34</i> |
| Exceptions | Exceptions | General exceptions to the right of access |
| 1. The institutions shall refuse access to a document where disclosure would undermine the protection of: | 1. The institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards: | Amendment 35 1. Without prejudice to the cases dealt with in Article 5, the institutions, <i>bodies, offices or agencies</i> shall refuse access to a document where disclosure would undermine the protection of the public interest as regards: |
| (a) the public interest as regards: - public security, - defence and military matters, - international relations, - the financial, monetary or economic policy of the Community or a Member | (a) public security <i>including the safety of natural or legal persons</i> ; | Amendment 36 (a) <i>the internal</i> public security <i>of the European Union or of one or more of its Member States</i> ; |

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| State; | | |
| (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. | (b) defence and military matters; | |
| | | Amendment 37 Point b a (new) <i>(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, bodies, offices or agencies 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 Article 41 of the Charter;</i> |
| | (c) international relations; | |
| | (d) the financial, monetary or economic policy of the Community or a Member State; | |
| | (e) the environment, such as breeding sites of rare species. | |
| 2. The institutions shall refuse access to a | | Amendment 38 |

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| document where disclosure would undermine the protection of: | 2. The institutions shall refuse access to a document where disclosure would undermine the protection of: | 2. The institutions, <i>bodies, offices or agencies</i> shall refuse access to a document where disclosure would undermine the protection of <i>public or private interests linked to:</i> |
| - commercial interests of a natural or legal person, including intellectual property, | (a) commercial interests of a natural or legal person; | |
| - court proceedings and legal advice, | (b) intellectual property rights; | |
| - the purpose of inspections, investigations and audits, unless there is an overriding public interest in disclosure. | (c) legal advice <i>and court, arbitration and dispute settlement</i> proceedings; | Amendment 39 (c) legal advice <i>dealing with court proceedings;</i> |
| | (d) the purpose of inspections, investigations and audits; | |
| | (e) the objectivity and impartiality of <i>selection</i> procedures. | Amendment 40 (e) the objectivity and impartiality of <i>public procurement</i> procedures <i>until a decision has been taken by the contracting institution, body, office or agency or of a selection board in proceedings leading to the recruitment of staff until a decision has been taken by appointing authority.</i> |
| 3. Access to a document, drawn up by an | <i>3. Access to the following documents shall be refused if their disclosure would seriously</i> | <i>Amendment 41</i> |

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| <p>institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.</p> <p>Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.</p> | <p><i>undermine the decision-making process of the institutions:</i> <i>(a) documents relating to a matter where the decision has not been taken;</i></p> <p><i>(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 .</i></p> | <p><i>deleted</i></p> |
| <p>4. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.</p> | <p>4. The exceptions under <i>paragraphs (2) and (3)</i> shall apply unless there is an overriding public interest in disclosure. <i>As regards paragraph 2(a) an overriding public interest in disclosure shall be deemed to exist</i> where <i>the information</i> requested <i>relates to emissions into the</i> environment.</p> | <p>Amendment 42 4. The exceptions under <i>paragraph (2)</i> shall apply unless there is an overriding public interest in disclosure. <i>When balancing the</i> public interest in disclosure, <i>special weight shall be given to the fact that the</i> requested <i>documents relate to the protection of fundamental rights or the right to live in a healthy</i> environment.</p> |
| | | <p>Amendment 43</p> |

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| | | <p>4 a (new)</p> <p><i>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.</i></p> |
| <p>5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.</p> | <p>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.</p> | <p>Amendment 44</p> <p>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:</p> |
| | | <p>- 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</p> |

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| | | <i>adversely affect that person;</i> |
| | | <i>- 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;</i> |
| | | <i>- if the data have already been published with the consent of the person concerned.</i> |
| | | <i>Personal data shall nevertheless be disclosed if an overriding public interest requires disclosure. In such a case, the institution, body, office or agency 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.</i> |
| | | <i>Where an institution, body, office or agency refuses access to a document on the basis of this paragraph, it shall consider whether it is possible to grant partial access to that document.</i> |
| 6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released. | 6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released. | |

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| <p>7. The exceptions as laid down in paragraphs 1 to 3 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 privacy or commercial interests and in the case of sensitive documents, the exceptions may, if necessary, continue to apply after this period.</p> | <p>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. <i>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.</i></p> | <p>Amendment 45</p> <p>7. The exceptions as laid down in this Article <i>shall not apply to documents transmitted in the framework of procedures leading to a legislative act or a non-legislative act. The exceptions</i> 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.</p> |
| | | <p><i>Amendment 46</i></p> <p><i>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.</i></p> |
| Article 5 | Article 5 | |
| Documents in the Member States | <i>Consultations</i> | |
| Where a Member State receives a request for a document in its possession, originating from an institution, unless it is clear that the document shall or shall not | 1. As regards third-party documents, the <i>institution shall consult the</i> third party with a view to assessing whether an exception <i>referred to in Article 4</i> is applicable, <i>unless it is clear that the</i> | <p>Amendment 47</p> <p>1. As regards third-party documents, <i>they shall be disclosed by the institutions, bodies, offices or agencies without consulting the</i></p> |

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| <p>be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the attainment of the objectives of this Regulation.</p> <p>The Member State may instead refer the request to the institution.</p> | <p><i>document shall or shall not be disclosed.</i></p> | <p><i>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, bodies, offices or agencies for the purpose of influencing policy-making should be made public.</i></p> <p><i>The third-party must give its answer in a reasonable time within the deadlines. In the absence of reply, it will be considered that the third-party agrees to the disclosure of the document.</i></p> |
| | <p>2. Where an application concerns <i>a document</i> originating from a Member State, <i>other than documents transmitted in the framework of procedures leading to a legislative act or a non-legislative act of general application</i>, 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 <i>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.</i></p> | <p>2. Where an application concerns <i>one of the following documents</i> originating from a Member State:</p> <ul style="list-style-type: none"> - <i>which has not been transmitted by the Member State in its capacity as a member of the Council, or</i> - <i>which does not concern information submitted to the Commission concerning the implementation of European Union policies and legislation,</i> <p>the authorities of that Member State shall be consulted. The institution, <i>body, office or agency</i> holding the document shall disclose it</p> |

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| | | unless the Member State gives reasons for withholding it, based on the exceptions referred to in Article 4 or <i>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, body, office or agency shall assess the adequacy of reasons given by the Member State.</i> |
| | 3. <i>Where</i> 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. <i>Without prejudice to national parliamentary scrutiny, where</i> a Member State receives a request for a document in its possession, which originates from an institution, <i>body, agency or office</i> , unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution, <i>body, office or agency</i> 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, <i>body, office or agency.</i> |
| | | <p style="text-align: center;"><i>Amendment 48</i></p> <p style="text-align: center;"><i>Article 5a new</i></p> <p style="text-align: center;"><i>Legislative acts</i></p> |
| | | <i>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, including under delegated and</i> |

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| | | <i>implementing powers, shall grant the widest possible access to their activities, in compliance with the TFEU and Protocol 1.</i> |
| | | <i>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.</i> |
| | | <i>3. Legislative proposals as well other European Union 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.</i> |
| | | <i>4. During the legislative procedure, each institution or body, office or agency 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</i> |

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| | | <i>Council, also when acting at a Working Group level. The same treatment applies to the Commission and the Parliament.</i> |
| | | <i>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.</i> |
| | | <i>6. Once adopted, legislative acts shall be published in the Official Journal of the European Union as provided for by Article 13.</i> |
| | | <i>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 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 European Union 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.</i> |
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| Article 6 | Article 6 | |
| Applications | Applications | |
| 1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application. | 1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application. | |
| 2. If an application is not sufficiently precise, 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. | 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 49 2. If an application is not sufficiently precise the institution, body, office or agency 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. |
| 3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant | 3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair | |

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| informally, with a view to finding a fair solution. | and practical solution. | |
| 4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made. | 4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made. | |
| | | |
| Article 7 | Article 7 | |
| Processing of initial applications | Processing of initial applications | |
| 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 2 of this Article. | 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 50 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, body, office or agency 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. |

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| 2. 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. | 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 51 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 <i>a maximum of</i> 15 working days, provided that the applicant is notified in advance and that detailed reasons are given. |
| 3. 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. | 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. | |
| 4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application. | 4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application. | |
| Article 8 | Article 8 | |
| Processing of confirmatory applications | Processing of confirmatory applications | |

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| <p>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, namely instituting court proceedings against the institution and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.</p> | <p>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.</p> | <p>Amendment 52 1. A confirmatory application shall be handled promptly. Within a maximum of 15 working days from registration of such an application, the institution, body, office or agency 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, body, office or agency shall inform the applicant of the remedies open to him or her.</p> |
| <p>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.</p> | <p>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.</p> | <p>Amendment 53 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.</p> |
| <p>3. Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle</p> | <p>3. In the event of a total or partial refusal, the applicant may bring proceedings before the Court of First Instance against the institution and/or make a</p> | |

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| 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. | complaint to the European Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively. | |
| | 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 <i>EC Treaty</i> . | Amendment 54 4. Failure by the institution, <i>body, office or agency</i> to reply within the prescribed time limit shall be considered as a <i>definitive</i> 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 <i>Treaties</i> . |
| Article 9 | Article 9 | Amendment 55 |
| Treatment of sensitive documents | <i>Treatment of sensitive documents</i> | Deleted |
| 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 or of one or more of its Member States in the areas covered by Article | <i>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 or of one or more of its Member States in the areas covered by Article 4(1)(a), notably public security, defence and</i> | |

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| 4(1)(a), notably public security, defence and military matters. | <i>military matters.</i> | |
| 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. | <i>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.</i> | |
| 3. Sensitive documents shall be recorded in the register or released only with the consent of the originator. | <i>3. Sensitive documents shall be recorded in the register or released only with the consent of the originator.</i> | |
| 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. | <i>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.</i> | |
| 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 | <i>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</i> | |

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| respected. | <i>respected.</i> | |
| 6. The rules of the institutions concerning sensitive documents shall be made public. | <i>6. The rules of the institutions concerning sensitive documents shall be made public.</i> | |
| 7. The Commission and the Council shall inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions. | <i>7. The Commission and the Council shall inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions.</i> | |
| Article 10 | Article 10 | |
| Access following an application | Access following an application | |
| 1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference. 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 | 1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference. | |

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| than 20 A4 pages and direct access in electronic form or through the register shall be free of charge. | | |
| <p>2. If a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.</p> <p>3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.</p> | <p>2. If a document is publicly available and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.</p> | |
| <p>3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.</p> | <p>3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.</p> | |
| | <p>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</p> | <p>Amendment 56 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</p> |

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| | the register shall be free of charge. | electronic form or through the register shall be free of charge. <i>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, body, office or agency has already produced the document or documents concerned. The applicant shall be informed in advance of the amount and method of calculating any charge.</i> |
| | 5. This Regulation shall not derogate from specific modalities governing access laid down in EC or national law, such as the payment of a fee. | |
| Article 11 | Article 11 | |
| Registers | Registers | |
| 1. To make citizens' rights under this Regulation effective, each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form. References to documents shall be recorded in the register without delay. | 1. To make citizens' rights under this Regulation effective, each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form. References to documents shall be recorded in the register without delay. | |

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| <p>2. For each document the register shall contain a reference number (including, where applicable, the interinstitutional reference), the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 4.</p> | <p>2. For each document the register shall contain a reference number (including, where applicable, the interinstitutional reference), the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 4.</p> | |
| <p>3. The institutions shall immediately take the measures necessary to establish a register which shall be operational by 3 June 2002.</p> | <p>3. <i>The institutions shall immediately take the measures necessary to establish a register which shall be operational by 3 June 2002.</i></p> | <p><i>Amendment 57</i></p> <p>3. <i>Without prejudice to the internal rules of the institutions, bodies, offices or agencies, the register or system of registers (in the case of multiple registers for the same entity) of each institution, body, office or agency shall in particular contain references to:</i></p> |
| | | <p><i>- incoming and outgoing documents, as well as the official mail of the institution, body, office or agency where such mail falls within the definition set out in Article 3(a),</i></p> |
| | | <p><i>- agendas and summaries of meetings and documents prepared before meetings for circulation, as well as other documents circulated during meetings.</i></p> |

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| | | <i>Each institution, body, office or agency shall:</i> |
| | | <i>- by ...*, adopt and publish internal rules concerning the registration of documents,</i> |
| | | <i>- by... **, ensure that its register is fully operational.</i> |
| | | ----- <i>* Six months from the date of entry into force of this Regulation. ** One year from the date of entry into force of this Regulation.</i> |
| Article 12 | Article 12 | |
| Direct access in electronic form or through a register | Direct access to documents | |
| 1. The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned. | 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 58 1. The institutions, bodies, offices or agencies shall make documents directly accessible to the public in electronic form or through registers, particularly those drawn up or received in the course of procedures for the adoption of <i>European Union</i> legislative acts or non-legislative acts of general application. |
| 2. In particular, legislative documents, that | 2. Where possible, other documents, notably documents relating to the development of policy or | |

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| is to say, documents drawn up or received in the course of procedures for the adoption of acts which are legally binding in or for the Member States, should, subject to Articles 4 and 9, be made directly accessible. | strategy, shall be made directly accessible in electronic form. | |
| 3. Where possible, other documents, notably documents relating to the development of policy or strategy, should be made directly accessible. | 3. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located. | |
| 4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located. | 4. <i>Each institution shall define in its rules of procedure which other categories of documents are directly accessible to the public.</i> | Amendment 59 4. <i>The institutions, bodies, offices or agencies 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 European Union legislative acts or non-legislative acts of general application.</i> |
| Article 13 | Article 13 | |
| Publication in the Official Journal | Publication in the Official Journal | |

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| <p>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:</p> | <p>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:</p> | <p>Amendment 60</p> <p>1. <i>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.</i> In addition to the acts referred to <i>in Article 297 TFEU</i> the following documents shall, subject to <i>Articles 3a and 4</i> of this Regulation, be published in the Official Journal:</p> |
| (a) Commission proposals; | <i>(a) Commission proposals;</i> | |
| (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; | <i>(b) common</i> positions adopted by the Council in accordance with the procedures referred to in <i>Articles 251 and 252 of the EC Treaty</i> and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures; | <p>Amendment 61</p> <p>(b) positions adopted by the Council in accordance with the <i>procedure</i> referred to in <i>Article 294 TFEU</i> and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;</p> |
| (c) framework decisions and decisions referred to in Article 34(2) of the EU Treaty; | <i>(c) framework decisions and decisions referred to in Article 34(2) of the EU Treaty;</i> | |

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| (d) conventions established by the Council in accordance with Article 34(2) of the EU Treaty; | <i>(d) conventions established by the Council in accordance with Article 34(2) of the EU Treaty;</i> | |
| (e) conventions signed between Member States on the basis of Article 293 of the EC Treaty; | <i>(e) conventions signed between Member States on the basis of Article 293 of the EC Treaty;</i> | |
| (f) international agreements concluded by the Community or in accordance with Article 24 of the EU Treaty. | <i>(f) international agreements concluded by the Community or in accordance with Article 24 of the EU Treaty.</i> | Amendment 62 (f) international agreements concluded by the European Union in accordance with Article 37 TEU as well as Article 218 TFEU. |
| 2. As far as possible, the following documents shall be published in the Official Journal: | 2. As far as possible, the following documents shall be published in the Official Journal: | |
| (a) initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty or pursuant to Article 34(2) of the EU Treaty; | <i>(a) initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty or pursuant to Article 34(2) of the EU Treaty;</i> | (a) initiatives presented to the Council by Member States pursuant to Article 76 TFEU; |
| (b) common positions referred to in Article 34(2) of the EU Treaty; | <i>(b) common positions referred to in Article 34(2) of the EU Treaty;</i> | |

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| (c) directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions. | (c) directives other than those referred to <i>in Article 254(1) and (2) of the EC Treaty</i> , decisions other than those referred to <i>in Article 254(1) of the EC Treaty</i> , recommendations and opinions. | (c) directives other than those referred to in <i>Article 297 TFEU</i> decisions other than those referred to in <i>Article 297 TFEU</i> , recommendations and opinions. |
| 3. Each institution may in its rules of procedure establish which further documents shall be published in the Official Journal. | 3. Each institution may in its rules of procedure establish which further documents shall be published in the Official Journal. | Amendment 63 3. Other documents to be published in the Official Journal of the European Union 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 European Union. |
| Article 14 | Article 14 | |
| Information | Information | |
| 1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation. | 1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation. | |
| 2. The Member States shall cooperate with the institutions in providing information to the citizens. | 2. The Member States shall cooperate with the institutions in providing information to the citizens. | |

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| | | <p><i>Amendment 64</i></p> <p><i>Article 14 a (new)</i></p> <p><i>Information Officer</i></p> |
| | | <p><i>1. Each general administrative unit within each institution, body, office or agency shall appoint an Information Officer who shall be responsible for ensuring compliance with the provisions of this Regulation and good administrative practice within that administrative unit.</i></p> |
| | | <p><i>2. The Information Officer shall determine which information it is expedient to give the public concerning:</i></p> <p><i>(a) the implementation of this Regulation;</i></p> <p><i>(b) good practice;</i></p> <p><i>and shall ensure the dissemination of that information in an appropriate form and manner.</i></p> |
| | | <p><i>3. The Information Officer shall assess whether the services within his or her general administrative unit follow good practice.</i></p> |
| | | <p><i>4. The Information Officer may redirect the person who requires the information to another general administrative unit if the information in question falls outside the</i></p> |

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| | | <i>remit of that unit and within the remit of a different unit within the same institution, body, office or agency, provided that he or she is in possession of such information.</i> |
| | | <p><i>Amendment 65</i> <i>Article 14 b (new)</i></p> <p style="text-align: center;">Article 14b</p> <p style="text-align: center;">Principle of good administration</p> <p><i>In the transitional period before the adoption of the rules as envisaged by Article 298 TFEU and based on the requirements of Article 41 of the Charter the institutions, bodies, offices and agencies 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 339 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.</i></p> |

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| Article 15 | Article 15 | |
| Administrative practice in the institutions | Administrative practice in the institutions | <i>Amendment 66</i> Administrative transparency practice in the institutions, bodies, offices or agencies |
| 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. | <i>Amendment 67</i> 1. The institutions, bodies, offices and agencies shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation. They 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. |
| | | <i>Amendment 68</i> 1a. In order to ensure that the principles of transparency and good administration are effectively applied, they shall agree on common implementing rules and procedures on the presentation, classification, declassification, registration and dissemination of documents. |
| | | <i>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, bodies, offices or agencies</i> |

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| | | <i>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 shall not apply once that decision has been taken.</i> |
| | | Amendment 69 <i>1b. The institutions, bodies, offices or agencies 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.</i> |
| 2. The institutions shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents. | 2. The institutions shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents. | |
| | | Amendment 70 <i>2a. Information relating to the European Union budget, its implementation and beneficiaries of European Union funds and grants shall be public and accessible to citizens.</i> <i>Such information shall also be accessible</i> |

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| | | <i>via a specific website and database, searchable on the basis of the above information, dealing with financial transparency in the EU.</i> |
| Article 16 | Article 16 | |
| Reproduction of documents | Reproduction of documents | |
| 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. | This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to <i>obtain copies of documents or to</i> reproduce or exploit released documents. | Amendment 71 This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's <i>right to reproduce</i> or exploit released documents. |
| Article 17 | Article 17 | Amendment 72 <i>Title V - Final provisions</i> |
| Reports | Reports | |
| 1. Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register. | Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register. | |

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| | | <i>1a. By ..., at the latest, 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, bodies, offices or agencies.</i> |
| 2. At the latest by 31 January 2004, 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 and an action programme of measures to be taken by the institutions. | | |
| Article 18 Application measures | Article 18 Repeal | |
| 1. Each institution shall adapt its rules of procedure to the provisions of this Regulation. The adaptations shall take | Regulation (EC) No 1049/2001 is repealed with effect from [...]. References to the repealed Regulation shall be construed as references to this Regulation and shall | |

| REGULATION (EC) No 1049/2001 | PROPOSAL OF THE COMMISSION (COM(2008)0229) and COM(2011)0137) | EP DRAFT REPORT (COM(2008)0229 – C6-0184/2008 – 2008/0090(COD)) |
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| <p>effect from 3 December 2001.</p> <p>2. Within six months of the entry into force of this Regulation, the Commission shall examine the conformity of Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community(6) with this Regulation in order to ensure the preservation and archiving of documents to the fullest extent possible.</p> <p>3. Within six months of the entry into force of this Regulation, the Commission shall examine the conformity of the existing rules on access to documents with this Regulation.</p> | <p>be read in accordance with the correlation table in the Annex.</p> | |
| <p>Article 19</p> <p>Entry into force</p> | <p>Article 19</p> <p>Entry into force</p> | |
| <p>This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.</p> <p>It shall be applicable from 3 December 2001.</p> | <p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</p> | |

| REGULATION (EC) No 1049/2001 | PROPOSAL OF THE COMMISSION (COM(2008)0229) and COM(2011)0137) | EP DRAFT REPORT (COM(2008)0229 – C6-0184/2008 – 2008/0090(COD)) |
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| It shall be applicable from 3 December 2001. | | |
| This Regulation shall be binding in its entirety and directly applicable in all Member States. | This Regulation shall be binding in its entirety and directly applicable in all Member States. | |