



Public access to documents: towards more transparency in the EU

Plenary sessions

MEPs voted to increase accessibility to the public of documents held by EU institutions, when they amended draft legislation on Thursday to enhance transparency, accountability, and democracy in the EU.

The current legislation on "public access to documents" only covers the European Parliament, Council and Commission but is to be extended to all EU institutions, bodies, offices and agencies.

The purpose of the amended version of "public access to documents" Regulation 1049/2001 is to give the fullest possible effect to the right of public access to documents and to lay down general principles and exceptions to such access on the grounds of public or private interest.

"Only through transparency can citizens participate in an informed way in the democratic process, which is even more important in the current crisis", said Civil Liberties Committee rapporteur, Michael Cashman (S&D, UK). "What we are talking about is a right that allows citizens and their representatives outside Parliament and the institutions to make sure that we are accountable: parliamentarians accountable for what we do in their name; the Commission accountable for what they do; and equally the Council of Ministers accountable too", he added.

Knowing how ministers and prime ministers vote in Council would also "destroy the media myth that unpopular measures from Brussels are imposed on national governments, whereas the contrary is true. National governments have to agree. At EU level we should become a model for our Member States on transparency", he concluded.

What is a "document"?

Parliament inserted a broader definition of "document" - a concept that lies at the very heart of the regulation - than proposed by the Commission, thus moving the legislation more towards a "freedom of information" act.

Any data content, whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording), concerning a matter falling within the sphere of responsibility of an EU institution, body, office or agency would be considered a document.

The amended regulation would apply to all documents "held" by an EU entity, MEPs say, i.e. documents drawn up or received by it and in its possession, in all areas of activity of the EU. It would also apply to the European Court of Justice, the European Central Bank and the European Investment Bank, but only in the course of the performance of their administrative tasks.

Exceptions to the right of access

In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests (e.g. public security, intellectual property rights, etc), could be protected by way of exceptions. MEPs amended the proposal in order to clarify and limit such exceptions.

Press release

The exceptions would not apply to documents transmitted in the context of legislative procedures or for the purpose of influencing policy-making by lobbyists and other interested parties, MEPs underline.

"Overriding public interest in disclosure"

Furthermore, these exceptions could not apply if there were an "overriding public interest in disclosure". This interest would be deemed to exist where the document requested relates to the "protection of fundamental rights and the rule of law, sound management of public funds, or the right to live in a healthy environment, including emissions into the environment".

An institution invoking one of these exceptions - fundamental rights, public funds, and the environment - would nonetheless have "to make an objective and individual assessment and show that the risk to the interest protected is foreseeable and not purely hypothetical, and define how access to the document could specifically and effectively undermine the interest protected".

Classified documents

Parliament also inserted a new rule on the procedure to follow for using the classification - "EU top secret", "EU secret", "EU confidential" and "EU restricted" - and the declassification of documents. An institution could classify a document only where its disclosure would undermine the protection of the essential interests of the EU or of one or more of the Member States, MEPs say, notably in public security, defence and military matters.

Documents originating from Member States

Member States should not have a right to veto access to documents originating from them, nor a right to refer to provisions in their own legislation in order to justify confidentiality. They would however have to be consulted in order to assess whether one of the exceptions foreseen by this regulation is applicable.

Next steps

MEPs will continue negotiations with the Council and the Commission on this file to try to reach an agreement.

In the plenary debate, Commissioner Maroš Šefčovič said: "This agreement risks taking time and I am afraid that, given the amendments proposed in the report, agreement on changes to the regulations is not within reach. I cannot of course anticipate the position that the Council will take on the proposed amendments but many of them cannot be accepted by the Commission. (...) Though disappointed by the lack of progress so far, I hope that a real constructive dialogue can take place between the three institutions after the vote, with a view to reaching an agreement".

The proposal was passed with 394 votes in favour, 197 against and 35 abstentions.

Procedure: Co-decision (1st reading)

Contact :

Isabel Teixeira NADKARNI

BXL: (+32) 2 28 32198

STR: (+33) 3 881 76758

PORT: (+32) 498 98 33 36

EMAIL: libe-press@europarl.europa.eu

Paola BUONADONNA

ADDINFO: (+44) 207 227 43 35

STR: (+33) 3 881 74822

PORT: (+44) 7 786 060 531

EMAIL: Press-en@europarl.europa.eu

EMAIL: paola.buonadonna@europarl.europa.eu