



**COUNCIL OF  
THE EUROPEAN UNION**

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**LIMITE**

**MEETING DOCUMENT**

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from: Presidency  
to: Working Party on Information  
No. prev. doc.: 9441/12 INF 75 API 56 JUR 253 CODEC 1153  
No. Cion prop.: 9200/08 INF 103 API 23 JUR 192 CODEC 946  
+ COR 1

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Subject: Recast of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents

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1. Delegations will find at annex a synoptic overview of the texts related to the recast of Regulation 1049/2001. The fourth column of the table contains the draft text of an adjusted mandate for the next informal trilogues. This compromise text will be discussed by the Working Party on Information at its meeting on 8 June 2012.
2. New text compared to the current Regulation is indicated by underlining and **bold**; deleted text is indicated by (...)

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  regarding public access to European Parliament, Council and Commission documents	Regulation of the European Parliament and of the Council <del>regarding public access to European Parliament, Council and Commission documents</del> <i>defining the general principles and limits governing the right of access to documents of Union institutions, bodies, offices and agencies</i> [Am. 1]	<b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b> regarding public access to (...) documents <b><u>of the Union's institutions, bodies, offices and agencies</u></b>
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 proposal from the Commission <sup>2</sup> , Acting in accordance with the procedure referred to in Article 251 of the Treaty <sup>3</sup> ,	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 proposal from the Commission <sup>4</sup> , Acting in accordance with the procedure laid down in article 251 of the Treaty <sup>5</sup> ,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  Having regard to the Treaty on the Functioning of the European Union, and in particular Article 15 thereof,  Having regard to the proposal from the Commission,  Acting in accordance with the ordinary legislative procedure <sup>6</sup> ,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty <b><u>on the Functioning of the European Union</u></b> , and in particular <b><u>the second subparagraph of Article 15(3)</u></b> thereof, Having regard to the proposal from the Commission <sup>7</sup> , Acting in accordance with the <b><u>ordinary legislative procedure</u></b> ,

<sup>1</sup> Paragraphs in **bold** in this column correspond to the Commission 2011 proposal.

<sup>2</sup> OJ C 177E, 27.6.2000, p. 70.

<sup>3</sup> Opinion of the European Parliament of 3 May 2001 (not yet published in the Official Journal) and Council Decision of 28 May 2001.

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

<sup>6</sup> Position of the European Parliament of 15 December 2011.

<sup>7</sup> OJ C 177E, 27.6.2000, p. 70.

<b>Regulation 1049/2001</b>	<b>Commission Proposals 2008 &amp; 2011<sup>1</sup></b>	<b>European Parliament position</b>	<b>Presidency compromise text</b>
[RECITALS WILL BE EXAMINED AT A LATER STAGE]			

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>Article 1</p> <p><b>Purpose</b></p> <p>The purpose of this Regulation is:</p> <p>(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,</p> <p>(b) to establish rules ensuring the easiest possible exercise of this right, and</p> <p>(c) to promote good administrative practice on access to documents.</p>	<p>Article 1</p> <p><b>Purpose</b></p> <p>The purpose of this Regulation is:</p> <div data-bbox="943 371 1115 451" style="border: 1px solid black; padding: 2px; width: fit-content; margin: 5px auto;">↓ 1049/2001 (adapted)</div> <p>(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 <del>ensure</del> <input checked="" type="checkbox"/> grant the public <input checked="" type="checkbox"/> the widest possible access to <input checked="" type="checkbox"/> such <input checked="" type="checkbox"/> documents<del>s</del>;</p> <p><b>(a) to define the principles, conditions and limits on grounds of public or private interest governing the right of public access to documents of the institutions of the European Union, as defined in Article 3 (c), provided for in Article 15(3) of the Treaty on the Functioning of the European Union in such a way as to grant the public the widest possible access to documents,</b></p> <p>(b) to establish rules ensuring the easiest possible exercise of this right<del>s</del>; <del>and</del></p> <div data-bbox="943 1262 1115 1305" style="border: 1px solid black; padding: 2px; width: fit-content; margin: 5px auto;">↓ 1049/2001</div> <p>(c) to promote good administrative</p>	<p>Article 1</p> <p><b>Purpose</b></p> <p>The purpose of this Regulation is:</p> <p>(a) to define, <i>in accordance with Article 15 TFEU</i>, the principles, conditions and limits on grounds of public or private interest governing the right of access to <del>European Parliament, Council and Commission</del> (hereinafter referred to as «the institutions») documents provided for in Article 255 of the EC Treaty in such a way <i>as of Union institutions, bodies, offices and agencies, in such a way as</i> to grant the public the widest possible access to such documents; [Am. 26]</p> <p>(b) to establish rules ensuring the easiest possible exercise of this right;</p> <p>(c) to promote <i>transparent and</i> good administrative practice <del>on</del> <i>in order to improve</i> access to documents, <i>and in particular the overall goals of greater transparency, accountability, and democracy.</i> [Am. 27]</p>	<p>Article 1</p> <p><b>Purpose</b></p> <p>The purpose of this Regulation is:</p> <p>(a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to (...) documents <u>of the Union's institutions</u> provided for in <u>Article 15(3) of the Treaty on the Functioning of the European Union (TFEU)</u> in such a way as to ensure the widest possible access to documents,</p> <p>(b) to establish rules ensuring the easiest possible exercise of this right, and</p> <p>(c) to promote good administrative practice on access to documents, <u>thereby supporting the overall goals of greater transparency, accountability and democracy.</u></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
	practice on access to documents.		
<p style="text-align: center;">Article 2</p> <p style="text-align: center;"><b>Beneficiaries and scope</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p style="text-align: center;">Article 2</p> <p style="text-align: center;"><b>Beneficiaries and scope</b></p> <p style="text-align: center;">↓ 1049/2001 (adapted)</p> <p>1. Any <del>citizen of the Union, and any natural or legal person residing or having its registered office in a Member State,</del> <input checked="" type="checkbox"/> shall have <input checked="" type="checkbox"/> a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation.</p> <p><del>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.</del></p> <p><del>3. This Regulation shall apply to all documents held by an institution, that is to say</del> <input checked="" type="checkbox"/> <del>namely</del> <input checked="" type="checkbox"/>, documents drawn up or received by it and in its possession <input checked="" type="checkbox"/> concerning a matter relating to the policies, activities and decisions falling within its sphere of responsibility <input checked="" type="checkbox"/>, in all areas of activity of the European Union.</p> <p><b>3. 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</b></p>	<p style="text-align: center;">Article 2</p> <p style="text-align: center;">Beneficiaries and scope</p> <p><del>1. Any natural or legal person or any association of legal or natural persons</del> shall have a right of access to documents of the Union institutions, <b>bodies, offices and agencies</b>, subject to the principles, conditions and limits defined in this Regulation.</p> <p><del>2. This Regulation shall apply to all documents held by an institution, namely, documents drawn up or received by it and in its possession concerning a matter relating to the policies, activities and decisions falling within its sphere of responsibility, in all areas of activity of the European Union.</del></p> <p><del>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.</del></p> <p><del>4. Sensitive documents as defined in</del></p>	<p style="text-align: center;">Article 2</p> <p style="text-align: center;">Beneficiaries and scope</p> <p>1. Any citizen of the Union, and any natural or legal person, <b><u>including any association of such persons</u></b>, 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.</p> <p>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.</p> <p>3. This Regulation shall apply to all documents held by an institution, <b><u>namely, documents drawn up or received by it and in its possession concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility</u></b>, in all areas of activity of the European Union. <b><u>As regards the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, this Regulation shall apply only when exercising</u></b></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>5. Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.</p> <p>6. 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.</p>	<p><b>activity of the European Union. As regards the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, this Regulation shall apply only when they exercise their administrative tasks.</b></p> <div data-bbox="943 475 1115 555" style="border: 1px solid black; padding: 2px; margin: 10px auto; width: fit-content;"> <p style="text-align: center;">↓ 1049/20 01</p> </div> <p><del>43.</del> 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.</p> <p><del>54.</del> Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.</p> <div data-bbox="943 1010 1115 1050" style="border: 1px solid black; padding: 2px; margin: 10px auto; width: fit-content;"> <p style="text-align: center;">↓ new</p> </div> <p>5. This Regulation shall not apply to documents submitted to Courts by parties other than the institutions.</p> <p>6. Without prejudice to specific rights of access for interested parties established</p>	<p><del>Article 9(1) shall be subject to special treatment in accordance with that Article.</del></p> <p><del>5. This Regulation shall not apply to documents submitted to Courts by parties other than the institutions.</del></p> <p><del>6. Without prejudice to specific rights of access for interested parties established by EC law, documents forming part of the administrative file of an investigation or of proceedings concerning an act of individual scope shall not be accessible to the public until the investigation has been closed or the act has become definitive. Documents containing information gathered or obtained from natural or legal persons by an institution in the framework of such investigations shall not be accessible to the public.</del></p> <p><del>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.</del></p> <p>[Am. 28]</p>	<p><b><u>their administrative tasks.</u></b></p> <p>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.</p> <p>5. Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.</p> <p>6. This Regulation shall be without prejudice to rights of public access to documents held by the institutions which might follow from:</p> <p><b><u>a) the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters done at Århus, Denmark, on 25</u></b></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
	<p>by EC law, documents forming part of the administrative file of an investigation or of proceedings concerning an act of individual scope shall not be accessible to the public until the investigation has been closed or the act has become definitive. Documents containing information gathered or obtained from natural or legal persons by an institution in the framework of such investigations shall not be accessible to the public.</p> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 10px auto;"> <p style="text-align: center;">↓ 1049/2001</p> </div> <p>67. 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.</p>	<p style="text-align: center;"><i>Article 2a</i></p> <p style="text-align: center;"><i>Scope</i></p> <p><i>1. This Regulation shall apply to all documents held by a Union institution, body, office and agency, that is to say documents drawn up or received by it and in its possession, in all areas of activity of the Union. This Regulation shall apply to the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, only in the course of the performance of their administrative tasks.</i></p> <p><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.</i></p> <p><i>3. This Regulation shall be without</i></p>	<p><b><u>June 1998 and Regulation (EC) No 1367/2006<sup>8</sup>; or</u></b></p> <p><b><u>b) other</u></b> instruments of international law or acts of the institutions implementing them.</p>

<sup>8</sup> **Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Århus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p. 13.).**

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<i>prejudice to enhanced rights of public access to documents held by the institutions, bodies, offices or agencies which might derive from instruments of international law or acts of the institutions implementing them or by the law of the Member States. [Am. 29]</i>	
<p>Article 3</p> <p><b>Definitions</b></p> <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>(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.</p>	<p>Article 3</p> <p><b>Definitions</b></p> <p>For the purpose of this Regulation:</p> <div data-bbox="831 660 1115 735" style="border: 1px solid black; padding: 2px; margin: 5px 0;">       ↓ 1049/2001 (adapted)        ⇒ new     </div> <p>(a) «document» <del>shall mean</del> ☒ means ☒ any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) <del>concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility</del> ⇒ 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>(b) «third party» <del>shall mean</del></p>	<p>Article 3</p> <p>Definitions</p> <p>For the purpose of this Regulation:</p> <p>(a) "document" <del>means</del> <i>shall mean</i> any <i>data</i> content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) <del>drawn up by an institution and formally transmitted to one or more recipients or otherwise registered, or received by an institution;</del> data <i>concerning a matter falling within the sphere of responsibility of a Union institution, body, office or agency. Data</i> contained in electronic storage, processing and retrieval systems, <del>are documents</del> <i>including external systems used for the work of that institution, body, office or agency, constitute a document, notably</i> if they can be extracted <del>in the form of a printout or electronic-format copy</del> using <i>any reasonably</i></p>	<p>Article 3</p> <p>Definitions</p> <p>For the purpose of this Regulation:</p> <p>(a) "document" <b>means</b> any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording), <b><u>including data contained in electronic storage, processing and retrieval systems that is held by an institution, if they can be extracted using the available tools for the exploitation of the system;</u></b></p> <p><b><u>(aa) «institutions» means institutions, bodies, offices and agencies of the European Union, including the European External Action Service.</u></b></p> <p>(b) "third party" <b>means</b> any natural or legal person, or any entity outside the institution concerned, including the Member States, other <b><u>Union or non-</u></b></p>



Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
	<p>⊗ 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.</p> <p>(c) 'institutions' shall mean institutions, bodies, offices and agencies of the European Union, including the European External Action Service.</p>	<p><del>the</del> available tools for the exploitation of the system <i>concerned. 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, ensure that the right of access is guaranteed as a fundamental right , 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 requests from the public;</i></p> <p>(aa) "classified documents" shall mean documents which have been totally or partially classified in accordance with Article 3a(1);</p> <p>(ab) "legislative act" shall include documents drawn up or received in the course of legislative procedures for the adoption of legislative acts, including measures of general application under delegated and implementing powers, and acts of general application which are legally binding in or on the Member States;</p>	<p><u>Union institutions (...) and third countries. Member States are not considered as third parties when their representatives act in their capacity as members of the Council or when their delegates act in the framework of the Council decision-making process or of the control of the Commission's exercise of implementing powers<sup>9</sup>.</u></p>

<sup>9</sup> [See doc. 6898/02 and doc. 6203/02; see also Case T-111/00 BAT International v. Commission.]

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<p><i>(ac) "administrative tasks" shall mean measures dealing with the organisational, administrative or budgetary matters of the institution, body, office or agency concerned;</i></p> <p><i>(ad) "archive system" shall mean a tool or a procedure 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></p> <p><i>(ae) "historical archives" shall mean that part of the archives of the institutions, bodies, offices and agencies which has been selected, on the terms laid down in point (a), for permanent preservation.</i></p> <p><i>A detailed list of all the categories of 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, offices and agencies, which shall also agree and publish their common criteria for archiving;</i></p> <p><i>(b) "third party" shall mean any natural or legal person, or any entity outside the institution, body, office or agency concerned,</i></p>	

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		including the Member States, other <del>Community</del> <i>Union</i> or <del>non-Community</del> <i>non-Union</i> institutions and bodies and third countries. [Am. 30]	
			<p style="text-align: center;"><b><u>Article 3a</u></b></p> <p style="text-align: center;"><b><u>Documents subject to this Regulation</u></b></p> <p><b><u>A document becomes subject to this Regulation:</u></b></p> <p><b><u>1) when it has been drawn up by an institution and either formally transmitted to one or more recipients, submitted for filing or registration, approved by the competent official, or otherwise completed for the purposes for which it was intended, or</u></b></p> <p><b><u>2) when it has been received by an institution.</u></b></p>
			<p style="text-align: center;"><b><u>Article 3b</u></b></p> <p style="text-align: center;"><b><u>Legislative and other acts</u></b></p> <p><b><u>When acting in their legislative capacity, or acting under delegated powers, the institutions shall, subject to Articles 4 and 9, apply the obligation to grant the widest possible access to documents in such a manner as to give full effect to the democratic principles in Articles 9 to 12 TEU. This shall also apply to Council documents originating from</u></b></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
			<b><u>the Member States when the representatives of the Member States act in their capacity as members of the Council or when their delegates act in the framework of the Council decision-making process.</u></b>
		[...]	[Not part of the Presidency's approach]
<p>Article 4</p> <p><b>Exceptions</b></p> <p>1. The institutions shall refuse access to a document where disclosure would undermine the protection of:</p> <p>(a) the public interest as regards:</p> <ul style="list-style-type: none"> <li>– public security,</li> <li>– defence and military matters,</li> <li>– international relations,</li> <li>– the financial, monetary or economic policy of the Community or a Member State;</li> </ul> <p>(b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.</p> <p>2. The institutions shall refuse access</p>	<p>Article 4</p> <p><b>Exceptions</b></p> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 5px auto;">↓ 1049/2001 (adapted) ⇒ new</div> <p>1. The institutions shall refuse access to a document where disclosure would undermine the protection of <del>(a)</del> the public interest as regards:</p> <p><u>(a)</u> public security ⇒ including the safety of natural or legal persons ⇐ <del>(a)</del></p> <p><u>(b)</u> defence and military matters<del>;</del></p> <p><u>(c)</u> international relations<del>;</del></p> <p><u>(d)</u> the financial, monetary or economic policy of the Community or a Member State;</p> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 5px auto;">↓ new</div> <p><u>(e)</u> the environment, such as breeding</p>	<p>Article 4</p> <p>Exceptions</p> <p>1. The institutions, bodies, offices and agencies shall refuse access to a document where disclosure would undermine the protection of the public interest as regards:</p> <p>(a) public security <del>including the safety of natural or legal persons</del> <b><i>of the Union or of one or more of the Member States; [Am. 32]</i></b></p> <p>(b) defence and military matters;</p> <p>(c) international relations;</p> <p>(d) the financial, monetary or economic policy of the <del>Community</del> <b><i>Union</i></b> or a Member State; <b>[Am. 33]</b></p> <p>(e) the environment, such as</p>	<p>Article 4</p> <p>Exceptions</p> <p>1. The institutions shall refuse access to a document where disclosure would undermine the protection of:</p> <p>(a) the public interest as regards:</p> <ul style="list-style-type: none"> <li>– public security,</li> <li>– defence and military matters,</li> <li>– international relations,</li> <li>– the financial, monetary or economic policy of the <b><u>Union</u></b> or a Member State<sub>2</sub></li> </ul> <p><b><u>– the environment, such as breeding sites of rare species;</u></b></p> <p>(b) privacy and the integrity of the individual, in particular in accordance</p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>to a document where disclosure would undermine the protection of:</p> <ul style="list-style-type: none"> <li>– commercial interests of a natural or legal person, including intellectual property,</li> <li>– court proceedings and legal advice,</li> <li>– the purpose of inspections, investigations and audits,</li> </ul> <p>unless there is an overriding public interest in disclosure.</p> <p>3. Access to a document, drawn up by an 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</p>	<p>sites of rare species.</p> <p style="text-align: right;">↓ 1049/2001</p> <p><del>(b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.</del></p> <p>2. The institutions shall refuse access to a document where disclosure would undermine the protection of:</p> <p style="text-align: right;">↓ 1049/2001 (adapted)</p> <p>(a) commercial interests of a natural or legal person; <del>including intellectual property;</del></p> <p>☒ (b) intellectual property rights; ☒</p> <p style="text-align: right;">↓ 1049/2001 (adapted) ⇒ new</p> <p>(c) ☒ legal advice and ☒ court proceedings ⇒ , arbitration and dispute settlement proceedings ⇐ <del>and</del> ;</p> <p>(d) the purpose of inspections, investigations and audits;</p> <p style="text-align: right;">↓ new</p>	<p>breeding sites of rare species.</p> <p>2. The institutions, <i>bodies, offices and agencies</i> shall refuse access to a document where disclosure would undermine the protection of: [Am. 34]</p> <p>(a) commercial interests of a natural or legal person;</p> <p>(b) intellectual property rights;</p> <p>(c) legal advice <del>and court, arbitration and dispute settlement proceedings;</del> <i>relating to court proceedings</i>; [Am. 35]</p> <p>(d) the purpose of inspections, investigations and audits;</p> <p>(e) the objectivity and impartiality of <del>selection</del> <i>public procurement</i> procedures <i>until a decision has been taken by the contracting institution, body, office or agency concerned, or the proceedings of a selection board leading to the recruitment of staff until a decision has been taken by</i></p>	<p>with <u>Union</u> legislation regarding the protection of personal data.<sup>10</sup></p> <p><b><u>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, there is reason to assume that the legitimate interests of the person might be prejudiced.</u></b></p> <p><b>ALTERNATIVE: CURRENT COUNCIL MANDATE</b></p> <p>2. The institutions shall refuse access to a document where disclosure would undermine the protection of:</p> <ul style="list-style-type: none"> <li>– commercial interests of a natural or legal person, including intellectual property,</li> <li>– court proceedings and legal advice,</li> <li>– the purpose of inspections,</li> </ul>

<sup>10</sup> [A recital will also be included as follows: '**The protection of personal data and the right of access to documents are both fundamental rights in the Charter of Fundamental Rights of the European Union and shall be exercised under the conditions and limits defined by the Treaties and can only be limited subject to the principle of proportionality, and only if such limitations are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.**']

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>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>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>5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.</p> <p>6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.</p> <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</p>	<p>(e) the objectivity and impartiality of selection procedures.</p> <div data-bbox="831 308 1115 384" style="border: 1px solid black; padding: 2px; margin: 10px 0;"> <p>↓ 1049/2001 (adapted) ⇒ new</p> </div> <p><del>unless there is an overriding public interest in disclosure.</del></p> <p>3. Access to <input checked="" type="checkbox"/> the following documents <input checked="" type="checkbox"/> <del>a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution,</del> shall be refused if <input checked="" type="checkbox"/> their <input checked="" type="checkbox"/> <del>disclosure of the document</del> would seriously undermine the <del>institution's</del> decision-making process <input checked="" type="checkbox"/> of the institutions: <input checked="" type="checkbox"/> <del>unless there is an overriding public interest in disclosure.</del></p> <p><input checked="" type="checkbox"/> (a) documents relating to a matter where the decision has not been taken; <input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/> (b) documents <input checked="" type="checkbox"/> <del>Access to a document</del> containing opinions for internal use as part of deliberations and preliminary consultations within the institutions concerned, <del>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</del></p>	<p><i>the appointing authority.</i> [Am. 36]</p> <p>3. Access to <del>the following</del> documents <i>drawn up by an institution, body, office or agency for internal use or received by it relating to a matter where it has not yet taken a decision</i> shall be refused <i>only</i> if their disclosure would, <i>due to their content and the objective circumstances of the situation, manifestly and</i> seriously undermine the decision-making process of the institutions:</p> <p>(a) documents relating to a matter <del>where the decision has not been taken;</del></p> <p>(b) documents containing opinions for internal use as part of deliberations and preliminary consultations within the institutions concerned, <del>even after the decision has been taken.</del> [Am. 37]</p> <p>4. <del>The exceptions under paragraphs (2) and (3) shall apply unless there is an</del> <i>When balancing the public interest in disclosure under paragraphs (1) to (3), an</i> overriding public interest in disclosure. <del>As regards paragraph 2(a) an overriding public interest in disclosure shall be deemed to exist where the</del> <i>information document</i> requested</p>	<p>investigations and audits,</p> <p><u>– the objectivity and impartiality of selection procedures for the award of contracts or grants under the Financial Regulation, or involving the comparative assessment of the merits of candidates or members of the staff of an institution, or involving the assessment of the merits of candidates for public offices.</u></p> <p>(...)</p> <p>3. Access to a document, drawn up by an 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 (...).</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 (...).</p>

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<p>exceptions may, if necessary, continue to apply after this period.</p>	<p><del>disclosure.</del></p> <p>⊗ 4. The exceptions under paragraphs (2) and (3) shall apply unless there is an overriding public interest in disclosure. ⊗ ⇒ As regards paragraph 2(a) an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment. ⇐</p> <p style="text-align: right;">↓ new</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 style="text-align: right;">↓ 1049/2001 (adapted)</p> <p>6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.</p> <p>7. The exceptions as laid down in <del>paragraphs 1 to 3</del> <u>this Article</u> shall only apply for the period during which</p>	<p>relates to <i>the protection of fundamental rights and the rule of law, the sound management of public funds, or the right to live in a healthy environment, including in terms of</i> emissions into the environment. <i>An institution, body, office or agency invoking one of the exceptions must 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 in question could specifically and effectively undermine the interest protected.</i></p> <p>[Am. 38]</p> <p><i>4a. Documents the disclosure of which would pose a risk to environmental protection, such as those relating to the breeding sites of rare species, shall only be disclosed in conformity with Regulation (EC) No 1367/2006.</i></p> <p>[Am. 39]</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</p>	<p><b><u>3a. The exceptions under paragraphs (2) and (3) shall apply unless there is an overriding public interest in disclosure.</u></b></p> <p><b><u>3b. The exceptions in Article 4(2) shall apply as follows:</u></b></p> <p><b><u>a) The disclosure of documents lodged in court proceedings shall be considered to undermine the protection of court proceedings under Article 4(2), while the proceedings are pending.</u></b></p> <p><b><u>[b) The disclosure of legal advice documents relating to issues which are the subject of a decision-making process until the relevant act becomes definitive or regarding a question which has not been decided, in last instance, by the Court of Justice, shall be considered to undermine the protection of legal advice under Article 4(2).]</u></b></p> <p><b><u>c) The disclosure of documents forming part of specific investigations and inspections carried out with a view to the enforcement of competition, state aid and anti-dumping policy or for the purposes of criminal</u></b></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
	<p>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 <del>privacy</del> <input checked="" type="checkbox"/> the protection of personal data <input checked="" type="checkbox"/> or commercial interests and in the case of sensitive documents, the exceptions may, if necessary, continue to apply after this period.</p>	<p><del>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.</del> <i>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:</i></p> <ul style="list-style-type: none"> <li>- <i>if the data relate solely to the professional activities of the person concerned unless, given the particular circumstances, there is reason to assume that disclosure would adversely affect that person;</i></li> <li>- <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></li> <li>- <i>if the data have already been published with the consent of the person concerned.</i></li> </ul> <p><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</i></p>	<p><b><u>proceedings shall be considered to undermine the protection of the purposes of investigation and inspection activities under Article 4(2), until the relevant investigation or inspection is closed or the act has become definitive.</u></b></p> <p><b><u>Access to a document containing information gathered or obtained from natural or legal persons by an institution in the framework of such investigations through voluntary cooperation or through inspections of premises shall be presumed to undermine the purpose of such investigations even after the investigation has been closed, or the relevant act has become definitive and the follow-up action has been taken.</u></b></p> <p><b><u>d) The disclosure of documents forming part of the procedure concerning possible infringement of Union law shall be presumed to undermine the protection of the purposes of investigation and inspection activities under Article 4(2), until the relevant administrative procedure is closed. If Member States disclose such documents, they shall inform the Commission.</u></b></p>



Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<p><i>interest. It shall give reasons why, in the specific case, the public interest outweighs the interests of the person concerned.</i></p> <p><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. [Am. 40]</i></p> <p>6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.</p> <p>7. The exceptions as laid down in this Article shall <del>only apply for the period during which protection is justified on the basis of the content of the document.</del> <i>not apply to documents transmitted within the framework of procedures leading to a legislative act or delegated or implementing act of general application. Nor shall the exceptions apply to documents provided to institutions, bodies, offices and agencies for the purpose of influencing policy-making by lobbyists and other interested parties. 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</i></p>	<p><b><u>e) Paragraphs a) to d) shall not apply if disclosure will clearly not compromise the achievement of the objective of such activities or if there is an overriding public interest justifying individual examination in accordance with Article 4.</u></b></p> <p><b><u>f) Documents, which have already been made public by the institutions, shall be disclosed.</u></b></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>5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement, <b><u>setting out the reasons for its objection by reference to the exceptions referred to in Article 4.</u></b></p> <p>6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.</p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<p>exceptions <del>may if necessary, continue to apply after this period.</del> <b>shall only apply for as long as is justified by the content of the document and in any event</b> for a maximum period of 30 years. [Am. 41]</p> <p><i>7a. An institution, body, office or agency may grant privileged access to the documents covered by paragraphs (1) to (3) for the purpose of research. If privileged access is granted, the information shall only be released subject to appropriate restrictions regarding its use. [Am. 42]</i></p>	<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>Article 5</p> <p><b>Documents in the Member States</b></p> <p>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 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><u>Article 5</u></p> <p>↓ 1049/2001 (adapted)</p> <p>⊗ <b>Consultations</b> ⊗</p> <p><del>41.</del> As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception ⊗ referred to ⊗ in <del>paragraph 1 or 2</del> <u>Article 4</u> is applicable, unless it is clear that the document shall or shall not be disclosed.</p> <p><del>5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.</del></p>	<p>Article 5</p> <p><del>Consultations</del> <b>Consultation of third parties</b></p> <p>1. As regards third-party documents, the institutions, <b>bodies, offices and agencies</b> shall consult the third party with a view to assessing whether an exception referred to in Article 4 is applicable, unless it is clear that the document shall or shall not be disclosed.</p> <p>2. Where an application concerns a document originating from a Member State, other than documents transmitted within the framework of procedures leading to a legislative act</p>	<p><u>Article 5</u></p> <p>Documents in the Member States</p> <p>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 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>

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	<div style="text-align: right; border: 1px solid black; padding: 2px;">↓ new</div> <p>2. Where an application concerns a document originating from a Member State, other than documents transmitted in the framework of procedures leading to a legislative act or a non-legislative act of general application, the authorities of that Member State shall be consulted. The institution holding the document shall disclose it unless the Member State gives reasons for withholding it, based on the exceptions referred to in Article 4 or on specific provisions in its own legislation preventing disclosure of the document concerned. The institution shall appreciate the adequacy of reasons given by the Member State insofar as they are based on exceptions laid down in this Regulation.</p> <div style="text-align: right; border: 1px solid black; padding: 2px;">↓ 1049/2001 (adapted)</div> <p style="text-align: center;"><del>Article 5</del></p> <p style="text-align: center;"><del><b>Documents in the Member States</b></del></p> <p><u>3.</u> Where a Member State receives a request for a document in its possession, <del>originating</del> <input checked="" type="checkbox"/> which originates <input checked="" type="checkbox"/> 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 <del>the attainment of</del> the objectives of this</p>	<p>or a <del>non-legislative act</del> <i>delegated or implementing act</i> of general application, the authorities of that Member State shall be consulted <i>where there is any doubt as to whether the document is covered by one of the exceptions</i>. 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, <del>or on specific provisions in its own legislation preventing disclosure of the document concerned.</del> 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>and take a decision on the basis of its own judgment as to whether the exceptions cover the document concerned.</i></p> <p>3. Where a Member State receives a request for a document in its possession, which originates from an institution, <i>body, office or agency</i>, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution, body office or agency concerned in order to take a decision that does not jeopardise the objectives of this Regulation. The Member State may instead refer the</p>	

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	Regulation. The Member State may instead refer the request to the institution.	request to the institution, body office or agency concerned. [Am. 43]	
<i>(See Article 12)</i>	<i>(See Article 12)</i>	<p align="center"><b>Article 5a</b></p> <p align="center"><b>Legislative acts</b></p> <p><b>1. In compliance with the democratic principles outlined in Articles 9 to 12 TEU and with the case-law of the Court of Justice of the European Union, institutions acting in their legislative capacity, including under delegated and implementing powers, as well as Member States when acting in their capacity as Members of the Council, shall grant the widest possible access to documents relating to their activities.</b></p> <p><b>2. Documents relating to legislative programmes, preliminary civil society consultations, impact assessments and any other preparatory documents linked to a legislative procedure, as well as documents relating to the implementation of Union law and policies linked to a legislative procedure, shall be accessible on a user-friendly and coordinated interinstitutional site and published in a special electronic series of the Official Journal of the European Union.</b></p>	<i>(See Article 3b and 12)</i>

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		<p><b>3. During the legislative procedure, each institution, 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.</b></p> <p><b>4. Once adopted, legislative acts shall be published in the Official Journal of the European Union as provided for by Article 13. [Am. 44]</b></p>	
<p style="text-align: center;"><b>Article 6</b> <b>Applications</b></p> <p>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.</p> <p>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</p>	<p style="text-align: center;"><b>Article 6</b> <b>Applications</b></p> <p>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.</p> <p>2. If an application is not sufficiently precise <math>\Rightarrow</math> or if the requested documents cannot be identified <math>\Leftarrow</math>, the institution shall ask the applicant to clarify the application and shall assist the applicant</p>	<p style="text-align: center;"><b>Article 6</b> <b>Applications</b></p> <p>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 55(1) TEU <del>and in a sufficiently precise manner to enable the institution to identify the document.</del> The applicant is not obliged to state reasons for the application. <b>[Am. 45]</b></p> <p>2. If an application is not sufficiently precise or if the requested documents cannot be identified, the institution, <b>body, office or agency concerned</b></p>	<p style="text-align: center;"><b>Article 6</b> <b>Applications</b></p> <p>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 <b>55 of the Treaty on the European Union</b> 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.</p> <p>2. If an application is not sufficiently precise, the institution shall ask the applicant to clarify the application and</p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>the use of the public registers of documents.</p> <p>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 solution.</p> <p>4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.</p>	<p>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. ⇐</p> <p>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 ⇒ and practical ⇐ solution.</p> <p>4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.</p>	<p>shall, <i>within 15 working days</i>, 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, body, office or agency concerned has received the requested clarification. [Am. 46]</p> <p>3. In the event of an application relating to a very long document or to a very large number of documents, the institution, body, office or agency concerned may confer with the applicant informally, with a view to finding a fair and practical solution.</p> <p>4. The institutions, bodies, offices and agencies shall provide information and assistance to citizens on how and where applications for access to documents can be made.</p>	<p>shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents.</p> <p>3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned <b>shall</b> confer with the applicant informally, with a view to finding a fair <b>and practical</b> solution.</p> <p>4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.</p>
<p>Article 7</p> <p><b>Processing of initial applications</b></p> <p>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</p>	<p>Article 7</p> <p><b>Processing of initial applications</b></p> <p>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</p>	<p>Article 7</p> <p>Processing of initial applications</p> <p>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, body, office or agency concerned shall</p>	<p><u>Article 7</u></p> <p>Processing of initial applications</p> <p>1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. <b>As soon as possible and at the latest</b> within 15 working days from registration of the application, the institution shall either</p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>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.</p> <p>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.</p> <p>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.</p> <p>4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.</p>	<p>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 <del>2</del> 4 of this Article.</p> <p><del>32</del>. 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><del>33</del>. 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.</p> <p><del>44</del>. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.</p>	<p>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 a total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 4.</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 <del>by</del> <i>only once for a maximum period of</i> 15 working days, provided that the applicant is notified in advance and that detailed reasons are given. [Am. 47]</p> <p>3. <del>In the event of a total or partial refusal</del> <i>The institution, body, office or agency concerned shall notify the applicant whether, and if so when, partial or full access to the document is likely to be possible at a later time.</i></p> <p>The applicant may, within 15 working days of receiving a reply from the institution, body, office or agency concerned, make a confirmatory application asking it to reconsider its position. [Am. 48]</p>	<p>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.</p> <p><b><u>1a. The time-limit provided for in paragraph 1 shall be extended by a further 5 working days in respect of an application for access to a document originating from a Member State. Within that time-limit, the Member State consulted according to Article 4(5) shall be given a period of 10 working days for its reply.</u></b></p> <p>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.</p> <p>3. <b><u>Where a third party other than a Member State is consulted according to Article 4 (4), or in exceptional cases, such as in the event of an application relating to a very long document or to a very large</u></b></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<p>4. Failure by the institution, body, office or agency to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application.</p> <p><i>4a. Each institution, body, office and agency shall nominate a person responsible for checking that all the time limits laid down in this Article are duly met. [Am. 49]</i></p>	<p>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>4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.</p>
<p>Article 8</p> <p><b>Processing of confirmatory applications</b></p> <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>2. In exceptional cases, for example in the event of an application relating to a</p>	<p>Article 8</p> <p><b>Processing of confirmatory applications</b></p> <div data-bbox="831 783 1115 863" style="border: 1px solid black; padding: 2px; margin: 10px auto; width: fit-content;"> <p>↓ 1049/2001 (adapted) ⇒ new</p> </div> <p>1. A confirmatory application shall be handled promptly. Within <del>15</del> ⇒ 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, <del>namely instituting court proceedings against the institution and/or making a complaint to the Ombudsman, under the conditions laid</del></p>	<p>Article 8</p> <p>Processing of confirmatory applications</p> <p>1. A confirmatory application shall be handled promptly. Within <del>30 working days</del> <b>a maximum of 15 working days</b> from registration of such an application, the institution, <b>body, office or agency concerned</b> 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 a total or partial refusal, <b>that</b> institution, <b>body, office or agency</b> shall inform the applicant of the remedies open to him or her. [Am. 50]</p> <p>2. In exceptional cases, for example in the event of an application relating to a very long document or to a very</p>	<p><u>Article 8</u></p> <p>Processing of confirmatory applications</p> <p>1. A confirmatory application shall be handled promptly. <b>As soon as possible and at the latest within 30</b> 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 <b>before the General Court</b> against the institution and/or making a complaint to the Ombudsman, under the conditions laid down in <b>Articles 263 and 228 TFEU</b>,</p>



Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>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>3. Failure by the institution to reply within the prescribed time-limit shall be considered as a negative reply and entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the EC Treaty.</p>	<p><del>down in Articles 230 and 195 of the EC Treaty, respectively.</del></p> <p style="text-align: right;">↓ 1049/2001</p> <p><u>22.</u> 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 style="text-align: right;">↓ new</p> <p><b>3.</b> 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 complaint to the European Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.</p> <p style="text-align: right;">↓ 1049/2001 (adapted)</p> <p><u>34.</u> Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and <del>⊗</del> shall <del>⊗</del> entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the EC Treaty.</p>	<p>large number of documents, the time limit provided for in paragraph 1 may be extended <del>by</del> <b>only once for a maximum period of</b> 15 working days, provided that the applicant is notified in advance and that detailed reasons are given. [Am. 51]</p> <p>3. In the event of a total or partial refusal, the applicant may bring proceedings before the General Court against the institution, body, office or agency and/or make a complaint to the European Ombudsman, under the conditions laid down in Articles 263 and 228 TFEU, respectively.</p> <p>4. Failure by the institution, <b>body, office or agency</b> to reply within the prescribed time limit shall be considered as a <b>definitive</b> negative reply and shall entitle the applicant to institute court proceedings against the institution, body, office or agency and/or make a complaint to the European Ombudsman, under the relevant provisions of the <del>EC Treaty</del> <b>Treaties</b>. [Am. 52]</p> <p style="text-align: center;"><b>Article 8a</b></p> <p style="text-align: center;"><b>Fresh applications</b></p> <p><b><i>If, after receiving the documents, the applicant requests further documents from an institution, body, office or agency, that request</i></b></p>	<p>respectively.</p> <p><b><u>1a. Within the time-limit provided for in paragraph 1, the Member States consulted according to Article 4(5) shall be given 10 working days to reply.</u></b></p> <p>2. <b><u>Where a third party other than a Member State is consulted according to Article 4(4), or in exceptional cases, such as 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 5 working days, provided that the applicant is notified in advance and that detailed reasons are given.</u></b></p> <p>3. Failure by the institution to reply within the prescribed time-limit shall be considered as a negative reply and entitle the applicant to institute court proceedings <b><u>before the General Court</u></b> against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the <b><u>Treaty on the Functioning of the European Union</u></b>.</p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<i>shall be dealt with as a fresh application in accordance with Articles 7 and 8. [Am. 53]</i>	
[...]	[...]	[...]	[Not part of the Presidency's approach]
<p>Article 12</p> <p><b>Direct access in electronic form or through a register</b></p> <p>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.</p> <p>2. In particular, legislative documents, that 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.</p> <p>3. Where possible, other documents, notably documents relating to the development of policy or strategy, should be made directly accessible.</p>	<p>Article 12</p> <p>↓ 1049/2001 (adapted)</p> <p><del>Direct access in electronic form or through a register</del> ☒ to documents ☒</p> <p><del>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.</del></p> <p><del>21. In particular, legislative documents, that is to say, documents drawn up or received in the course of procedures for the adoption of</del> ☒ EU legislative ☒ acts <del>which are legally binding in or for the Member States, should</del> ☒ or non-legislative acts of general application shall ☒, subject to Articles 4 and 9, be made directly accessible ☒ to the public ☒.</p> <p><del>32. Where possible, other documents,</del></p>	<p>Article 12</p> <p>Direct access to documents</p> <p>1. <del>Documents</del> <i>The institutions, bodies, offices and agencies shall make documents directly accessible to the public in electronic form or through registers, particularly those</i> drawn up or received in the course of procedures for the adoption of EU <i>Union</i> legislative acts or delegated and implementing acts of general application shall, subject to Articles 4 and 9, be made directly accessible to the public. [Am. 58]</p> <p>2. Where possible, other documents, notably documents relating to the development of policy or strategy, shall be made directly accessible in electronic form.</p> <p>3. Where direct access is not given through the register, the register shall</p>	<p>Article 12</p> <p>Direct access <u>to documents</u> <sup>11</sup></p> <p>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.</p> <p>2. (...) Documents drawn up or received in the course of procedures for the adoption of <b>EU legislative acts or non-legislative acts of general application shall</b>, subject to Articles 4 and 9, be made directly accessible <b>to the public on a user friendly and coordinated inter-institutional portal. The portal shall be operable within two years of the entry into force of this Regulation.</b></p> <p><b>Such documents include:</b></p>

<sup>11</sup> [Part of the amendments proposed in this Article are considered outside the scope of the recast proposal.]

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
<p>4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.</p>	<p>notably documents relating to the development of policy or strategy, <del>should</del> <input checked="" type="checkbox"/> shall <input checked="" type="checkbox"/> be made directly accessible <input checked="" type="checkbox"/> in electronic form <input checked="" type="checkbox"/>.</p> <p style="text-align: right;">↓ 1049/2001</p> <p><u>43.</u> Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.</p> <p style="text-align: right;">↓ new</p> <p>4. Each institution shall define in its rules of procedure which other categories of documents are directly accessible to the public.</p>	<p>as far as possible indicate where the document is located.</p> <p>4. Each institution, body, office and agency shall define in its rules of procedure which other categories of documents <del>are</del> <i>shall be proactively made</i> directly accessible to the public. [Am. 59]</p>	<ul style="list-style-type: none"> <li>- <b><u>preparatory documents;</u></b></li> <li>- <b><u>documents produced during all stages of decision-making;</u></b></li> <li>- <b><u>documents provided for the purpose of influencing decision-making by interest representatives and other interested parties.</u></b></li> </ul> <p><b><u>2a. During the legislative procedure, each institution taking part in the decision-making process shall make public the reference of its preparatory documents on the internet portal referred to in paragraph 2, reproducing the lifecycle of the procedure concerned.</u></b></p> <p>3. Where possible, other documents, notably documents relating to the development of policy or strategy <b><u>shall</u></b> be made directly accessible.</p> <p>4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.</p>
[...]	[...]	[...]	[Not part of the Presidency's approach]
Article 14	Article 14	Article 14	Article 14 Information

<b>Regulation 1049/2001</b>	<b>Commission Proposals 2008 &amp; 2011<sup>1</sup></b>	<b>European Parliament position</b>	<b>Presidency compromise text</b>
<p align="center"><b>Information</b></p> <p>1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.</p> <p>2. The Member States shall cooperate with the institutions in providing information to the citizens.</p>	<p align="center"><b>Information</b></p> <p>1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.</p> <p>2. The Member States shall cooperate with the institutions in providing information to the citizens.</p>	<p align="center">Information</p> <p>1. Each institution, body, office and agency shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.</p> <p>2. The Member States shall cooperate with the institutions, bodies, offices and agencies in providing information to the citizens.</p> <p align="center"><b>Article 14a</b></p> <p align="center"><b>Information Officer</b></p> <p><b>1. Each general administrative unit within each institution, body, office and agency shall appoint an Information Officer who shall be responsible for ensuring compliance with this Regulation and good administrative practice within that administrative unit.</b></p> <p><b>2. The Information Officer shall determine which information it is expedient to give the public concerning:</b></p> <p><b>(a) the implementation of this Regulation;</b></p> <p><b>(b) good practice;</b></p> <p><b>and shall ensure the dissemination</b></p>	<p>1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.</p> <p>2. The Member States shall cooperate with the institutions in providing information to the citizens.</p>

<sup>12</sup> OJ L 8, 12.1.2001, p. 1.

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<p><i>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 remit of that unit and within the remit of another unit within the same institution, body, office or agency, provided that the other unit in question is in possession of such information. [Am. 62]</i></p> <p style="text-align: center;"><i>Article 14b</i></p> <p style="text-align: center;"><i>Principle of good and open administration</i></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,</i></p>	

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
		<p><i>the obligations arising from sound and transparent administration and the protection of personal data in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>12</sup>. Those 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 Union, the Conditions of Employment of other servants of the European Union and in the internal rules of the institutions, bodies, offices and agencies . [Am. 63]</i></p>	
<p>Article 15</p> <p><b>Administrative practice in the institutions</b></p> <p>1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.</p> <p>2. The institutions shall establish an interinstitutional committee to examine</p>	<p>Article 15</p> <p><b>Administrative practice in the institutions</b></p> <p>1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.</p> <p>2. The institutions shall establish an interinstitutional committee to examine</p>	<p>Article 15</p> <p>Administrative <i>transparency</i> practice in the institutions, <i>bodies, offices and agencies</i> [Am. 64]</p> <p>1. The institutions, offices, bodies and agencies shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.</p>	<p><u>Article 15</u></p> <p>Administrative practice in the institutions</p> <p>1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.</p> <p><b><u>1a. Institutions shall designate</u></b></p>

Regulation 1049/2001	Commission Proposals 2008 & 2011 <sup>1</sup>	European Parliament position	Presidency compromise text
best practice, address possible conflicts and discuss future developments on public access to documents.	best practice, address possible conflicts and discuss future developments on public access to documents.	<p><i>1a. The institutions, bodies, offices and 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, and the services to which citizens may refer to obtain support, information or administrative redress. [Am. 65]</i></p> <p>2. The institutions, bodies, offices and agencies shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents.</p> <p><i>2a. Documents relating to the European Union budget, its implementation and beneficiaries of Union funds and grants shall be public and accessible to citizens.</i></p> <p><i>Such documents shall also be accessible via a specific website and database, and on a database dealing with financial transparency in the Union. [Am. 66]</i></p>	<p><b><u>transparency officers to manage the application of this Regulation.</u></b><sup>13</sup></p> <p>2. The institutions shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents.</p>

<sup>13</sup> [This proposed amendment is considered outside the scope of the recast proposal.]

<b>Regulation 1049/2001</b>	<b>Commission Proposals 2008 &amp; 2011<sup>1</sup></b>	<b>European Parliament position</b>	<b>Presidency compromise text</b>
[...]	[...]	[...]	[Not part of the Presidency's approach]

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