Interinstitutional Agreement between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy

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The Committee on Constitutional Affairs adopted the report by Gerald HAFNER (Greens/EFA, DE) on the conclusion of an interinstitutional agreement between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy.

It should be recalled that the Treaty of Lisbon extended the European Parliament's powers in the field of international agreements. The requirement for the Council to keep Parliament **immediately and fully informed at all stages of the procedure** is explicitly laid down in Article 218(10) of the TFEU.

In order to effectively exercise its prerogatives and competences, **Parliament must therefore be able to access classified information held by the Council**.

Until now, Parliament's access to all classified information which relates exclusively to the common foreign and security policy will continue to be governed by arrangements under an ad hoc Council decision or under the Interinstitutional Agreement of 20 November 2002 concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy ("the 2002 Interinstitutional Agreement") until other arrangements are agreed.

In view of the entry into force of the Lisbon Treaty, these rules should be reviewed in order to lay down arrangements for cooperation between Council and Parliament. Article 295 TFEU allows for the conclusion of an Interinstitutional agreement for that purpose. The Conference of Presidents decided to nominate a European Parliament negotiating team to conduct talks with the Council of Ministers on this matter. After several months of discussions, the team approved the result of the interinstitutional negotiations and referred the draft IIA to the Committee on Constitutional Affairs pursuant to Rule 127 of Parliament's Rules of Procedure. It is the result of these negotiations which is now before Parliament for its approval and signature.

Members **welcome the following aspects** contained in the agreement:

- a differentiation in the handling and storage of documents depending on the level of classification;
- a differentiation in procedures as regards security clearance for Members and staff depending on the level of classification, whereby no security clearance will be necessary for Members in respect of documents beneath the level of "CONFIDENTIEL UE/EU CONFIDENTIAL" or equivalent, as is the case in the abovementioned Framework Agreement between Parliament and the Commission;

- the inclusion of documents classified at the level of "TRÈS SECRET UE/EU TOP SECRET" or equivalent within the scope of the agreement, as is the case in the abovementioned Framework Agreement between Parliament and the Commission;
- the fact that access to documents, as appropriate, may be granted also to rapporteurs, shadow rapporteurs, or all or certain members of the committee(s) concerned;
- provisions on close cooperation between Parliament and the Council to ensure equivalent levels of protection for classified documents.

Members draw attention to the statement by the European Parliament and the Council attached to the agreement, which states that a review of the 2002 Interinstitutional Agreement should begin in the course of 2012 and should take account of the experience gained in implementing both the agreement and the 2002 Interinstitutional Agreement.

They regret the following, however:

- that, unlike the Framework Agreement between the Commission and Parliament, the agreement does not lay down a detailed procedure to be followed in cases of doubt regarding the confidential nature of an item of information or its appropriate level of classification;
- the fact that the 2002 Interinstitutional Agreement did not set out more clear-cut arrangements on access to classified information concerning the common foreign and security policy than the adoption of ad hoc decisions.