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

2012/2069(ACI) - 12/03/2014 - Final act

PURPOSE: to conclude an Interinstitutional Agreement (IIA) on the forwarding to the European Parliament of classified information held by the Council

ACT: 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.

BACKGROUND: the Treaty of Lisbon extended the European Parliament's powers in the field of international agreements. The requirement for the Council to keep Parliament informed is explicitly laid down in Article 218(10) of the Treaty on the Functioning of the European Union (TFEU), under the terms of which **Parliament shall be immediately and fully informed at all stages of the procedure**

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

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.

CONTENT: this agreement establishes the procedures 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,** which is relevant in order for the European Parliament to exercise its powers and functions.

Scope: are affected:

- proposals subject to a special legislative procedure or to another decision-making procedure under which the European Parliament is to be consulted or is required to give its consent;
- international agreements on which the European Parliament is to be consulted or is required to give its consent;
- negotiating directives for international agreements referred to in the previous point;

- activities, evaluation reports or other documents on which the European Parliament is to be informed; and

- documents on the activities of those Union agencies in the evaluation or scrutiny of which the European Parliament is to be involved.

Typology of information: the IIA distinguishes four levels of classified information:

1. 'RESTREINT UE/EU RESTRICTED',

2. 'CONFIDENTIEL UE/EU CONFIDENTIAL',

3. 'SECRET UE/EU SECRET',

4. 'TRÈS SECRET UE/EU TOP SECRET'.

Management and protection of 'classified information': a series of provisions are intended to define the classified information that may be sent to the European Parliament. In general, there is a differentiation in the handling and storage of documents depending on the level of classification.

The European Parliament shall take the appropriate measures to ensure that classified information provided to it by the Council shall not:

- be used for purposes other than those for which access was provided;

- be disclosed to others or made public;

- be released to other Union institutions, bodies, offices or agencies, or to Member States, third States or international organisations without the prior written consent of the Council.

In addition, the Council may not grant the European Parliament access to classified information which originates in other Union institutions, bodies, offices or agencies, or in Member States or third States.

Data security: where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent, **access may be granted only to Members of the European Parliament** authorised by the President of the European Parliament and on certain conditions (notably, security-cleared).

However, where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent, access may also be granted to those Members of the European Parliament who have signed a solemn declaration of non-disclosure. It would also be possible to grant access to those officials working for political groups on certain conditions specified in the IIA.

Procedure for accessing classified information: the Council should provide classified information to the European Parliament **where it is under a legal obligation to do** so pursuant to the Treaties or to legal acts adopted on the basis of the Treaties. In other cases, the Council may provide classified information to the European Parliament either **at its own initiative or on written request** from the President, the Conference of Presidents, the Bureau, the chair(s) of the committee(s) concerned or even the Rapporteurs concerned.

Registration, storage, consultation and discussion of classified information: where it is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE

/EU TOP SECRET or its equivalent, classified information provided by the Council to the European Parliament should:

- be registered for security purposes to record its life-cycle and ensure its traceability at all times;

- be stored in a secure area which meets the minimum standards of physical security laid down in the Council's security rules and the European Parliament's security rules; and

- only be consulted by the relevant Members of the European Parliament, officials of the European Parliament and other Parliament employees working for political groups in a secure reading room within the European Parliament's premises and under certain confidentiality conditions.

Types of treatment of classified information are provided for by the IIA with a differentiation in the handling depending on the level of confidentiality of the documents concerned.

Breach of security, loss or compromise of classified information: some provisions are provided to sanction any loss or compromise of classified information provided by the Council. Any Member or official who is responsible for a breach of the provisions laid down in the European Parliament's security rules or in this Agreement shall be **liable to penalties**.

Review: the IIA may be reviewed at the request of either institution in the light of experience in implementing it.

ENTRY INTO FORCE: 01.04.2014.