Public access to documents (Rule 116(7)) for the years 2014-2015

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The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Laura Ferrara on public access to documents (Rule 116(7)) for the years 2014-2015. It notes that the right of access to documents is a fundamental right, protected by the Charter of Fundamental Rights and the Treaties and implemented by Regulation 1049/2001.

Transparency and democracy: Members pointed out that many of the recommendations in the resolution on public access to documents for the years 2011-2013 have not been given a proper follow-up by the three institutions. They want to see the appointment of a **Transparency Officer**, to be responsible for compliance and for improving practices. They also called on the Commission Vice-President to present an **ambitious plan of action** regarding transparency and public access to documents, in recognition of the fact that transparency is the cornerstone of better regulation.

Members considered that the EU institutions **still fail to comply** with the rules and the changes provided for in the Lisbon Treaty and Articles 41 and 42 of the Charter of Fundamental Rights when applying Regulation (EC) No 1049/2001, especially as concerns participatory democracy. They welcome the recent judgments of the Court of Justice in the *Digital Rights Ireland* and *Schrems* cases, in both of which the Court based itself on the Charter when declaring invalid the Data Retention Directive and the Safe Harbour Decision, respectively.

Members suggested that:

- the Council publish minutes of the meetings of Council working groups and other documents, in the light of the Access Info Europe case, intervening Member States and their proposals;
- Parliament make available the agendas and feedback notes of the meetings of Committee coordinators, the Bureau and the Conference of Presidents, as well as, in principle, all documents referred to in these agendas;
- Parliament ensure that requests for in-camera meetings in Parliament be evaluated by Parliament on a case-by-case basis;
- all institutions evaluate and, where necessary, review their internal arrangements for reporting wrongdoing.

Revision of Regulation (EC) No 1049/2001: Members considered it regrettable that the revision of Regulation (EC) No 1049/2001 is **still stalled in the Council**, and called on the latter to adopt a constructive position, taking into account the position of the European Parliament adopted at first reading on 15 December 2011.

On the **substance** of a new regulation, Members felt that the latter should be amended in the light of the Treaty provisions and the relevant case law of the EU Court of Justice and the European Court of Human Rights. The scope of the regulation must be **broadened** to cover the European Council, the European Central Bank, the Court of Justice and all the EU bodies and agencies.

Furthermore, the committee called for:

- a common approach on registers of documents and for those EU institutions that have not yet established registers of documents to do so, and to implement measures to standardise the classification and presentation of the institutions' documents;
- a common access point to EU documents through the three institutions' portals, and common procedures and criteria for registration and the assignment of an interinstitutional code to each document.

Transparency of the legislative process: Members stressed the need to make available documents forming part of, or related to, legislative procedures. It examined the trilogue process and stated that trilogue documents should be published proactively on an easily accessible platform without delay. They also felt that access should be granted for:

- documents produced when powers are delegated (delegated acts), since these make up a substantial portion of European legislation;
- all relevant negotiating documents for international agreements, including those already agreed on, with the exception of those which are considered sensitive, with a clear justification on a case-by-case basis;

Transparency of the administrative process: EU institutions were asked to draw up common rules governing the conduct of administrative procedures and the procedures for presenting, classifying, declassifying, registering and disclosing administrative documents.

Infringement procedures: the committee deplored the lack of transparency regarding letters of formal notice and infringement procedures against Member States, and called for documents relating to such procedures to be made accessible to the public, together with information on the execution of judgments of the Court of Justice.

Management of Structural Funds: the committee believed that full data transparency and accessibility are essential to combat any abuse and fraud. It called on the Commission to make it compulsory to publish particulars on all recipients of money from the Structural Funds, including subcontractors. It also asked Member States to ensure that information about negotiations on national and regional operational programmes is made fully accessible and genuinely transparent.

The Commission should harmonise the criteria regarding the publication of the beneficiaries of the Structural Funds.