Public access to environmental information (repeal. Directive 90/313/EEC)

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PREVIOUS COMMUNITY LEGISLATION: Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment (OJ L 158/56, 23.6.1990). Under the terms of the directive, the authorities of Member States are required to make available information relating to the environment to any natural or legal person at his request and without his having to prove an interest. The requirement is restricted only where the interests of disclosure are outweighed by other interests, for example those of public security, where matters are sub judice, or on grounds of commercial and industrial confidentiality or the confidentiality of personal data and consultations. Article 6(2) of Directive 85/337/EEC on environmental impact assessments requires Member States to make available to the public all requests for development consent and the information obtained pursuant to Article 5 of the Directive (OJ L 175/40, 5.7.1985). PREVIOUS POSITION OF EP: In its resolution of 13 April 1989 (OJ C 120/234, 16.5.1989), Parliament largely approved the proposal for a directive (90/313/EEC) on the freedom of access to information on the environment, calling only for the exceptions to the right of access to information to be formulated more clearly and for interests to be weighed up. In its resolution of 19 January 1993 (OJ C 42 /40, 15.2.1993), Parliament called for the Commission to recommend new measures to extend the principle that members of the public have a right to information and a right of appeal, as laid down in the environmental impact assessment Directive (85/337/EEC) and called for the European Environment Agency to collect and make available data on the environment throughout the Community. SITUATION IN THE MEMBER STATES: Only Greece has not so far notified the Commission that it has transposed Directive 90/313/EEC on the freedom of access to information on the environment. However, there have been complaints about the application of the Directive, which have revealed cases both of non-conformity and of incorrect application. Many complaints have come from Germany, Belgium, Spain, Greece, Ireland and the United Kingdom. Most cases of incorrect application concern the definition of "environmental information" or the very extensive exceptions which, pursuant to the Directive, justify refusing information (Eleventh Annual Report on Monitoring the Application of Community Law, 1993, COM(94) 0500 final, 29.3.1994. p. 72). CONTENT OF THE PLANNED LEGISLATION: The proposal for a directive concerns the application of Directive 90/313/EEC to the Community institutions. It seeks to ensure that the European Parliament has access to all information of relevance to the environment which is held in the Community, and particularly throughout the Commission. There is no conceivable reason why the Member States should be subject to the provisions of the Directive but the Community institutions should not. It is intended, however, that lessons should be learned from experience of the application of the Directive in the Member States, and the exceptions to the information requirement formulated more precisely and less broadly. Without such limits, the provision for exceptions would cause particular problems in the Community and might even reduce the disclosure of information in comparison with current practice (for example on grounds of commercial and industrial confidentiality and in the case of internal communications). The EU institutions, including the Ombudsman, could be granted greater access to information with regard to the procedure provided for by Article 169 of the EC Treaty; under the proposal, the time limit for a reply would have to be kept below one month, and a central information unit would be set up within the Commission. Consideration would be given to instituting a pollutant emission register.