Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 26/01/2000 - Legislative proposal

PURPOSE: to grant citizens and residents of the Union the right of access to documents of the European Parliament, the Council and the Commission.

CONTENT: in line with the provisions of Article 255 of the EC Treaty, it is provided that the Commission presents a report on the general principles and limits governing the right of access to documents of the three institutions, which must be adopted under codecision procedure within two years of the entry into force of the Amsterdam Treaty, i.e. before 01/05/2001.

This proposal aims to open this right of access to every citizen in the Union without having to justify his /her interest. The legislation will cover all documents held by the three institutions, i.e. documents drawn up by them or emanating from third parties and in the possession of the institutions. The right of access will also extend to documents relating to the common foreign and security policy and police and judicial cooperation in criminal matters, as well as documents relating to activities under the ECSC and the Euratom Treaties.

The proposal defines the term "document" as any form of content irrespective of the medium on which it is carried. It will cover only administrative documents, i.e. any document on a topic which falls within the institutions remit, excluding documents expressing individual opinions or reflecting free and frank discussions or the provision of advice as part of internal consultations and deliberations, as well as informal messages such as e-mail messages which can be considered as telephone conversations.

Specific rules relating to access to documents or files already exist in connection with certain procedures. It is therefore important to stipulate clearly that the future rules governing the right of access to documents will not apply where specific rules already exist for certain persons who have a particular interest in information or where there are rules governing the confidentiality of certain documents. In addition, there are exceptions to the right of access and as under the present system; all the exceptions are based on a "harm test". This means that institutions shall refuse access to documents where disclosure could significantly undermine the protection of the public interest (public security, defence and international relations, financial or economic interest or the effective functioning of the institutions), the respect of privacy and the individual or even the protection of commercial and industrial secrecy.

Furthermore, this proposal contains provisions on the processing of initial applications (all applications for access to a document shall be made in writing in a sufficiently precise manner), remedies and the ways of exercising the rights to access (in particular, the eventual cost of access to the person requesting the information). Specific rules are also provided relating to non-reproduction of documents for commercial purposes or other forms of economic exploitation.

Moreover, it is also provided to supply an amended version of the document if one part of it is covered by one of the exceptions in the draft Regulation.

Lastly, a number of final provisions are proposed, designed to:

- commit the institutions covered by the Regulation to taking the necessary steps to inform citizens of their right and to set up public registers of documents;
- remind the institutions that they must lay down in their rules of procedure specific provisions for the

implementation of the general principles and limits laid down in this Regulation.

It is also highly desirable that the three institutions should undertake to adopt a number of additional measures in order to ensure a consistent approach in the implementation of the new rules governing public right of access to their documents. Such measures include training and informing their staff and reviewing existing procedures for registering, filing, archiving and classifying documents.