

Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 28/05/2001 - Modified legislative proposal

Following the informal "trialogue" meeting convened to seek a compromise solution to Parliamentary amendments, the European Parliament agreed to revise substantially its initial amendments to the proposed Directive as drafted following the first reading of the co-decision procedure. Bearing in mind the negotiations and compromises reached the European Commission acknowledges the need to incorporate into its revised proposal the amendments numbered 81 to 119 adopted by Parliament at its sitting on 3 May. The more pertinent amendments now incorporated into the proposed Regulation can be summarised as follows:

- Definitions. The restriction on access to documents for internal use, such as discussion documents, opinions of departments or informal messages, has now been removed. The definition of documents that currently applies will therefore remain unchanged. Documents for internal use are nevertheless protected by specific exceptions and are listed in Article 4 (3).
- Nature of the exceptions. Documents may still be disclosed where the interest to be protected is overridden by the public interest in disclosure. However, where the harm likely to be caused by disclosure outweighs the interest in disclosure, the institution must refuse access.
- List of exceptions. The Commission, as a compromise, agreed not to list infringement proceedings, as an overriding exception.
- Protection of the "space to think". Here, a new paragraph has been included which protects documents for internal use, before a decision is taken, and documents containing opinions for use as part of deliberations and preliminary consultations within the institutions, even after a decision has been taken in some cases.
- Third-party documents. Institutions may consult with third parties prior to disclosure in order to establish whether it is to be refused under one of the exceptions. The exceptions are to apply only for the period during which protection is justified - normally more than thirty years after the document was written.
- Disclosure by Member State. A new paragraph seeks Member State/Institutional consultation prior to the release of a document in order not to jeopardise the objectives of the Regulation.
- Applications. Replies should be forwarded within 15 working days.
- Treatment of sensitive documents. Applications are to be handled only by staff entitled to acquaint themselves with such documents. Sensitive documents are to be recorded in a register or released only with the consent of the originator.
- Registers, direct access and publications. The three institutions have indicated their intention of developing the dissemination of documents by electronic means.
- Monitoring and follow-up measures. An inter-institutional committee is to be established dealing with follow-up and the application of the Regulation.
- Compatibility with existing legislation. Other legislation effected by this Regulation will be examined to ensure it remains compatible with the objectives of the Regulation..
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