Basic information

2012/2069(ACI) ACI - Interinstitutional agreement procedure	Procedure completed
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 **Subject** 8.40.01 European Parliament 8.40.02 Council of the Union 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AFCO Constitutional Affairs	HÄFNER Gerald (Verts /ALE)	22/03/2011
	Shadow rapporteur TRZASKOWSKI Rafał (PPE) GUERRERO SALOM Enrique (S&D) DUFF Andrew (ALDE) SØNDERGAARD Søren Bo (GUE/NGL) MESSERSCHMIDT Morten (EFD)	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3298	2014-03-03

European Commission

Commission DG	Commissioner
Secretariat-General	ŠEFČOVIČ Maroš

Key events

Date	Event	Reference	Summary
18/04/2012	Committee referral announced in Parliament		

12/07/2012	Vote in committee		
18/07/2012	Committee report tabled for plenary	A7-0245/2012	Summary
13/09/2012	Decision by Parliament	T7-0339/2012	Summary
13/09/2012	Debate in Parliament		
13/09/2012	End of procedure in Parliament		
01/04/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/2069(ACI)
Procedure type	ACI - Interinstitutional agreement procedure
Procedure subtype	Interinstitutional agreement
Legal basis	Rules of Procedure EP 154
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/7/09318

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE489.377	07/05/2012	
Amendments tabled in committee		PE491.308	14/06/2012	
Committee report tabled for plenary, single reading		A7-0245/2012	18/07/2012	Summary
Text adopted by Parliament, single reading		T7-0339/2012	13/09/2012	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Third pillar act 2014/0401(01)
OJ C 095 01.04.2014, p. 0001 Summary

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) - 18/07/2012 - Committee report tabled for plenary, single reading

The Committee on Constitutional Affairs adopted the report by Gerald HAFNER (Greens/EFA, DE) on the conclusion of an 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.

It should be recalled that the Treaty of Lisbon extended the European Parliament's powers in the field of international agreements. The requirement for the Council to keep Parliament **immediately and fully informed at all stages of the procedure** is explicitly laid down in Article 218(10) of the TFEU.

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

Until now, Parliament's access to all classified information which relates exclusively to the common foreign and security policy will continue to be governed by arrangements under an ad hoc Council decision or under the Interinstitutional Agreement of 20 November 2002 concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy ("the 2002 Interinstitutional Agreement") until other arrangements are agreed.

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. The Conference of Presidents decided to nominate a European Parliament negotiating team to conduct talks with the Council of Ministers on this matter. After several months of discussions, the team approved the result of the interinstitutional negotiations and referred the draft IIA to the Committee on Constitutional Affairs pursuant to Rule 127 of Parliament's Rules of Procedure. It is the result of these negotiations which is now before Parliament for its approval and signature.

Members **welcome the following aspects** contained in the agreement:

- a differentiation in the handling and storage of documents depending on the level of classification;
- a differentiation in procedures as regards security clearance for Members and staff depending on the level of classification, whereby no security clearance will be necessary for Members in respect of documents beneath the level of "CONFIDENTIEL UE/EU CONFIDENTIAL" or equivalent, as is the case in the abovementioned Framework Agreement between Parliament and the Commission;
- the inclusion of documents classified at the level of "TRÈS SECRET UE/EU TOP SECRET" or equivalent within the scope of the agreement, as is the case in the abovementioned Framework Agreement between Parliament and the Commission;
- the fact that access to documents, as appropriate, may be granted also to rapporteurs, shadow rapporteurs, or all or certain members of the committee(s) concerned;
- provisions on close cooperation between Parliament and the Council to ensure equivalent levels of protection for classified documents.

Members draw attention to the statement by the European Parliament and the Council attached to the agreement, which states that a review of the 2002 Interinstitutional Agreement should begin in the course of 2012 and should take account of the experience gained in implementing both the agreement and the 2002 Interinstitutional Agreement.

They regret the following, however:

- that, unlike the Framework Agreement between the Commission and Parliament, the agreement does not lay down a detailed procedure to be followed in cases of doubt regarding the confidential nature of an item of information or its appropriate level of classification;
- the fact that the 2002 Interinstitutional Agreement did not set out more clear-cut arrangements on access to classified information concerning the common foreign and security policy than the adoption of ad hoc decisions.

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) - 13/09/2012 - Text adopted by Parliament, single reading

The European Parliament adopted by 587 votes to 7, with 6 abstentions, a decision on the conclusion of an 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: it should be recalled that the Treaty of Lisbon extended the European Parliament's powers in the field of international agreements. The requirement for the Council to keep **Parliament immediately and fully informed at all stages of the procedure is explicitly laid down in Article 218 (10) of the TFEU**.

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

Until now, Parliament's access to all classified information which relates exclusively to the common foreign and security policy will continue to be governed by arrangements under an ad hoc Council decision or under the Interinstitutional Agreement of 20 November 2002 concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy ("the 2002 Interinstitutional Agreement") until other arrangements are agreed.

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. The Conference of Presidents decided to nominate a European Parliament negotiating team to conduct talks with the Council of Ministers on this matter.

After several months of discussions, the team approved the result of the interinstitutional negotiations which resulted in a final agreement which is the subject of this decision.

Main points of the Interinstitutional Agreement:

- a differentiation in the handling and storage of documents depending on the level of classification;
- a differentiation in procedures as regards security clearance for Members and staff depending on the level of classification, whereby no security clearance will be necessary for Members in respect of documents beneath the level of "CONFIDENTIEL UE/EU CONFIDENTIAL" or equivalent, as is the case in the Framework Agreement between Parliament and the Commission;
- the inclusion of documents classified at the level of "TRÈS SECRET UE/EU TOP SECRET" or equivalent within the scope of the agreement, as is the case in the Framework Agreement between Parliament and the Commission;
- the fact that access to documents, as appropriate, may be granted also to rapporteurs, shadow rapporteurs, or all or certain members of the committee(s) concerned;
- provisions on close cooperation between Parliament and the Council to ensure equivalent levels of protection for classified documents.

Parliament welcomes the statement attached to the agreement concerning the classification of documents amending the 2002 Interinstitutional Agreement to reflect both the reforms carried out since it was concluded and the current situation. It regrets however that, unlike the Framework Agreement between the Commission and Parliament, **the agreement does not lay down a detailed procedure to be followed in cases of doubt regarding the confidential nature of an item of information** or its appropriate level of classification.

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.