



EUROPEAN UNION

ACCESS TO EUROPEAN PARLIAMENT, COUNCIL AND COMMISSION DOCUMENTS

A user's guide



A great deal of additional information on the European Union is available on the Internet. It can be accessed through the Europa server (<http://europa.eu.int>).

Cataloguing data can be found at the end of this publication.

Luxembourg: Office for Official Publications of the European Communities, 2002

ISBN 92-894-1903-2

© European Communities, 2002

Reproduction is authorised provided the source is acknowledged.

Printed in Belgium

Foreword

This guide is intended to help clarity and openness. The European Union's decisions are increasingly important in people's daily lives and access to its documents is a fundamental part of a spirit of openness.

The Treaty establishing the European Community recognises the citizen's right of access to European Parliament, Council and Commission documents. Regulation No 1049/2001 of 30 May 2001 lays down the general principles and restrictions relating to right of access.

This guide, which has been jointly produced by Parliament, the Council and Commission, gives practical advice on how to obtain access to their documents.

This guide has no legal force. It is intended to provide a short summary of the rules on access to documents. For the exact details of the principles, conditions and limitations of rights of access, you should refer to the texts published in the Official Journal (see annexes).

Article 255 of the Treaty establishing the European Community

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents, subject to the principles and the conditions to be defined in accordance with paragraphs 2 and 3.
2. General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the Council, acting in accordance with the procedure referred to in Article 251 within two years of the entry into force of the Treaty of Amsterdam.
3. Each institution referred to above shall elaborate in its own rules of procedure specific provisions regarding access to its documents.

Contents

Introduction	6
Access to documents: how to proceed	7
Direct access to documents	8
In the Official Journal	8
On the Internet	8
In the archives	9
How to obtain access to other documents	10
Who can apply?	10
How to find the document	10
How to make an application	11
Where to send it	11
What does it cost	11
How the application is handled	12
Responses to applications	12
The application is accepted	12
The application is refused	12
Useful addresses	14
Annexes	22

Introduction

The institutional world of the European Union is complex. It is not always easy to find the right address. If the institutions want the public to know about their activities they have to guide people towards the information they are seeking.

Before going into details, it is worth considering the role of each institution as this provides the first indication of where documents might be found.

- The **Commission** has a dual role. Firstly, it proposes new regulations, which are presented to the European Parliament and the Council. Secondly, it ensures that Community legislation is properly enforced by the Member States; this is its role as guardian of the treaties.
- The **European Parliament**, which is elected every five years by direct universal suffrage, is the expression of the democratic will of 374 million European citizens. It exercises part of the legislative power. It adopts a considerable proportion of legislative acts jointly with the Council; it is consulted on other legislative proposals. It shares budgetary authority with the Council. At the end of the procedure, it adopts the budget in its entirety. Parliament approves the appointment of Members of the Commission and can pass a motion of censure against them. The Council and Commission are also politically answerable to Parliament.
- The **Council of the European Union** consists of ministerial representatives of Member State governments. It exercises part of the legislative power: it adopts legislative acts jointly with Parliament or after consultation of Parliament. It also adopts acts of general application relating to cooperation concerning the common foreign and security policy and justice and home affairs, where it has an executive role, and in other areas.

Addresses and useful information are given at the end of this guide.

Access to documents: how to proceed

A number of documents are published on paper or in electronic form, often both. Such documents are directly accessible to the public.

You can request access to any unpublished document in paper, electronic, sound, visual or audiovisual form.

You should not confuse access to documents and access to information.

When the institutions receive your application, they will provide existing documents in the form in which they are available.

To help you obtain information on their activities, the EU institutions have made a number of publications (papers, reports, studies, leaflets and brochures) available on the Internet and through an extensive network of information centres and contact points.

Direct access to documents

.....



In the Official Journal

The Official Journal of the European Communities is available on paper or in electronic form in the European Union's eleven official languages: Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish.

It can be bought from the sales outlets of the Office of Official Publications of the European Communities.

On the Internet

A number of documents are directly accessible in electronic form on the institutions' Internet sites. Access is free and they can be consulted in the eleven official languages. You can access these sites directly or through the joint Europa portal.

Examples of documents that are directly accessible on the Internet

- Agendas and minutes of Commission meetings.
- The European Parliament's opinions on Commission legislative proposals.

- Provisional agendas for Council, committee and working party meetings and notes and drafts of acts when the Council acts as legislator.

The following Internet sites also give access to several databases, such as:

- **EUR-Lex:** the Official Journal and legislation in force.
- **CELEX:** a database where you can carry out documentary searches on Community law, i.e. legislation and jurisprudence (a subscription required).
- **PRE-Lex:** a database of interinstitutional procedures. It enables you to follow the main stages of the decision-making process between the Commission and the other institutions and see the full text of the documents.
- **Legislative Observatory (OEIL):** the European Parliament's database, which provides a summary of European Union decision-making processes. You can follow interinstitutional legislative work, the activities of Parliament's committees and what happens at plenary sessions. It summarises all stages of procedures and the full text of all documents drawn up by Parliament.
- **Ted (Tenders electronic daily):** Internet version of the Supplement to the Official Journal. You can see the calls for tender published by the institutions.

In the archives

With very few exceptions, documents that are over thirty years old are directly accessible to the public. They have been deposited in the historical archives of the institutions, each of which has a reading room open to the public. The references to documents in the Commission's historical archives can be found in the Archis database, which can be found on the Internet.

The University Institute in Florence holds the institutions' historical archives, which are made accessible to the public and transferred annually under the 30-year rule.

How to obtain access to other documents

.....



You can ask to see a document that has not been made public. This applies both to documents drawn up by the institution and documents it receives that come within its remit.

Who can apply?

Whatever your nationality and place of residence and whether you apply as an individual or on behalf of an association or company, you can apply for access to a Parliament, Council or Commission document without having to state the reasons for your application,

How to find the document

To help you in your search the EU institutions have set up registers of documents. These contain information such as titles, authors, dates and reference numbers. You can consult the registers on the Internet.

Some documents mentioned are already directly accessible. By clicking on the document number or the icon next to the title, you can obtain the full text on screen.

If you cannot identify the document in the register, this does not mean that the document does not exist. The registers are intended as finding aids and will be developed over the course of time.

How to make an application

Any application for access to a document must be made in writing in one of the following languages: Danish, Dutch, English, Finnish, French, German, Greek, Italian, Irish, Portuguese, Spanish or Swedish. You can send your application by post, fax or e-mail. If you have identified a document in a register, you only have to include the references in your application. If you are seeking access to a document that does not appear in the register, you must formulate your application as precisely as possible, providing maximum information to enable identification.

The institutions' Internet sites provide electronic forms and other facilities, to help you make your application.

Where to send it

The application should be sent to the institution that holds the document.

- European Parliament: the public register of documents.
- Council: the General Secretariat — the transparency, access to documents and public information unit.
- Commission: either to the Secretariat-General, Unit SG/B/2 — Openness, access to documents, relations with civil society, or directly to the department concerned.

What does it cost

In principle, access is free. You can either consult the document at the institution or arrange to have a copy sent electronically or on paper. If the document exceeds 20 pages, there may be a charge for copying and sending it.

How the application is handled

Once the institution receives your application, it is registered and you will receive an acknowledgement of receipt. After registration, the institution has 15 days to reply. This may exceptionally be extended for an additional 15 working days if the document is very long or you have asked for a very large number of documents.

Responses to applications

The application is accepted

You will receive the document as a paper copy or in electronic form, as you choose. You may also be asked to come and consult the document at the institution.

The application is refused

Reasons

Institutions will refuse to communicate a document if its disclosure would be harmful to:

- the public interest as regards public security, defence, relations with third countries, or economic and financial policy;
- privacy and the integrity of the individual;
- the commercial interests of a person or undertaking;
- court proceedings and legal advice;
- the purpose of inspections, investigations and audits;
- an institution's decision-making processes.

With the exception of the first two reasons (public interest and privacy), the document will be made available if the public interest of disclosure is greater than the potential harm.

If the reasons for refusal concern only part of the document, the other parts will be communicated.

For documents over 30 years old, the only exceptions concerning right of access will concern:

- protection of privacy;
- protection of commercial interests;
- documents classified confidentiel (**confidential**), secret (**secret**) or très secret **top secret**, to protect public interest (public safety, defence, international relations, economic and financial policy).

The institutions must explain any refusal, whatever the reasons.

Appeals

If you are refused access to a document or do not receive a reply within the time limits (15 working days from registration of the application), you can ask for the decision to be reconsidered. You must do this within 15 working days of receiving the negative reply, or from expiry of the time limit if you have not received a reply. All you have to do is apply to the institution in writing. The institution then has 15 working days to confirm or alter its decision.

If the refusal is upheld, there are two ways of making an appeal.

- ***You can make a complaint to the European Ombudsman:*** the Ombudsman's task is to investigate cases of maladministration in the EU's institutions and agencies, and above all to try to find amicable solutions. Any citizen or resident of the Union can contact him by post, fax or e-mail. A complaint form is available from the Ombudsman's office or on the Internet.
- ***You can bring a case before the Court of First Instance of the European Communities:*** to do this, you must be represented by a lawyer.

*

* *

We hope that you will find this guide useful in your searches for documents held by the European Parliament, the Council and Commission.

Useful addresses

Access to documents

(1) *Where to send applications*

European Parliament

Public register of documents of the European Parliament

Rue Wiertz
B-1047 Brussels
Belgium
Fax (32-2) 284 90 17

Plateau du Kirchberg
B.P. 1601
L-2929 Luxembourg
Fax (352) 430 02 29 78
E-mail: register@europarl.eu.int
Internet:
<http://www4.europarl.eu.int/registre/recherche/Menu.cfm?langue=EN>

Council of the European Union

General Secretariat of the Council of the European Union

Transparency, access to documents and public information unit

Rue de la Loi 175
B-1048 Brussels
Belgium
Fax (32-2) 285 63 61
E-mail: access@consilium.eu.int
Internet: <http://ue.eu.int/en/summ.htm> under 'Transparency'

European Commission

Secretariat-General of the European Commission

Unit SG/B/2 — Openness, access to documents, relations with civil society

B-1049 Brussels

Belgium

Fax (32-2) 296 72 42

E-mail: sg-acc-doc@cec.eu.int

Internet:

http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm

Other directorates-general:

European Commission

B-1049 Brussels

Belgium

Tel. (32-2) 299 11 11

Fax (32-2) 295 01 38

(2) Appeals in the event of refusal

European Ombudsman

Avenue du Président Robert Schuman 1

B.P. 403

F-67001 Strasbourg Cedex

France

Tel. (33-2) 388 17 23 13

Fax (33-2) 388 17 90 62

E-mail: euro-ombudsman@europarl.eu.int

Internet: <http://www.euro-ombudsman.eu.int>

Court of First Instance of the European Communities

Rue du Fort Niedergrünwald

L-2925 Luxembourg

Tel. (352) 430 31

Fax (352) 43 03 26 00

Internet: <http://curia.eu.int>

Registers of documents

Electronic register of documents of the European Parliament

Internet:

<http://www4.europarl.eu.int/registre/recherche/Menu.cfm?langue=EN>

Register of documents of the Council of the European Union

Internet: <http://register.consilium.eu.int>

Register of documents of the European Commission

Internet:

http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm

General information

European Parliament

The European Parliament's information offices in the Member States

Internet: <http://www.europarl.eu.int/addresses/offices/default.htm>

Council of the European Union

General Secretariat

Unit for Information to the Public

Rue de la Loi 175

B-1048 Brussels

Belgium

Call centre/Tel. (32-2) 285 56 60

Fax (32-2) 285 53 33

E-mail: public.info@consilium.eu.int

European Commission

Europe Direct

Call centre Tel. 00 800 67 89 10 11

Internet: <http://europa.eu.int/europedirect/index.html>

Commission representations in the Member States

Internet: http://europa.eu.int/comm/represent_en.htm

Commission delegations in non-EU countries

Internet: http://europa.eu.int/comm/external_relations/repdel/

Miscellaneous

Dialogue with business

Internet: <http://europa.eu.int/business/en/index.html>

Archives, libraries and documentation centres

European Parliament

Archives

Reading room (by appointment):

Alcide de Gasperi Building,

Room 01C011

Plateau du Kirchberg

B.P. 1601

L-2929 Luxembourg

Tel. (352) 430 02 32 73

Fax (352) 43 94 93

E-mail: ARCHInfo@europarl.eu.int

Council of the European Union

Archives

Reading room (by appointment):

Justus Lipsius Building, level 05

(Belliard entrance)

Chaussée d'Etterbeek 80

B-1048 Brussels

Belgium

Tel. (32-2) 285 72 92

Fax (32-2) 285 81 24

E-mail: archives.centrales@consilium.eu.int

opening times: Monday to Friday, 9 a.m.–4.30 p.m.

Central library

(by appointment)

Square Frère-Orban 2

B-1040 Brussels

Belgium

Tel. (32-2) 285 65 41

Fax (32-2) 285 81 74

E-mail: bibliotheque.centrale@consilium.eu.int

opening times: Monday to Friday, 9 a.m. – 5 p.m.

Documentation centre

Justus Lipsius Building

Rue de la Loi 175

B-1048 Brussels

Belgium

Tel. (32-2) 285 61 07

Fax (32-2) 285 53 32

E-mail: bookshop.online@consilium.eu.int

European Commission

Archives

Reading room:

Square de Meeûs 8, Room 0/4

B-1050 Brussels

Belgium

Tel. (32-2) 295 05 57

Fax (32-2) 296 10 95

E-mail: archis@cec.eu.int

opening times: Monday to Thursday, 9 a.m. – 12.30 p.m. and 2 – 5 p.m.

Friday, 9 a.m.–12.30 p.m. and 2–4 p.m.

Central library

Rue Van Maerlant 18

B-1049 Brussels

Belgium

Internet: http://europa.eu.int/comm/libraries/bibliotheques_en.htm

open to the public: Monday to Thursday, 10 a.m.–5 p.m.

Other useful addresses

The Office for Official Publications of the European Communities Sales, promotion and customer support service

2 rue Mercier

L-2985 Luxembourg

Tel. (352) 29 29-1

Fax (352) 49 57 19

E-mail: info-info-opoce@cec.eu.int

Sales agents: http://publications.eu.int/general/en/salesagents_en.htm

Internet: <http://www.eur-op.eu.int>

National information centres on Europe, Info-Points Europe, rural information carrefours, European documentation centres and other specific relays and networks

European Commission

Directorate-General for Press and Communication

Press Unit /A/2

B-1049 Brussels

Belgium

Outlets: http://europa.eu.int/comm/relays/index_en.htm

University Institute in Florence

Via dei Roccettini, 9

I-50016 San Domenico di Fiesole (Firenze),

Italy

Tel. (39) 055 468 51

Fax (39) 055 59 98 87

Internet: <http://www.iue.it>

Databases

ArchisPlus — the Commission's Historical Archives database

Internet: http://europa.eu.int/comm/secretariat_general/archisplus/htdocs/en/htm/home.htm

CELEX

Internet: <http://europa.eu.int/celex/>

EUR-Lex

Internet: <http://europa.eu.int/eur-lex/>

Europa

Internet: <http://europa.eu.int>

The European Union at a glance, basic information about the European Union with links to more detailed information

Internet: <http://europa.eu.int/abc-en.htm>

Legislative Observatory (OEIL)

Internet: <http://wwwdb.europarl.eu.int/dors/oeil/en/default.htm>

Pre-Lex

Internet: <http://europa.eu.int/prelex/apcnet.cfm?CL=en>

Electronic register of documents of the European Parliament

Internet:

<http://www4.euoparl.eu.int/registre/recherche/Menu.cfm?langue=EN>

Register of documents of the Council of the European Union

Internet: <http://register.consilium.eu.int>

Register of documents of the European Commission

Internet:

http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm

Ted

Internet: <http://ted.eur-op.eu.int>

Annexes



Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents

Official Journal L 145, 31.5.2001, p. 43

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof;

Having regard to the proposal from the Commission⁽¹⁾;

Acting in accordance with the procedure referred to in Article 251 of the Treaty⁽²⁾;

Whereas:

- (1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.
- (2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty and in the Charter of Fundamental Rights of the European Union.
- (3) The conclusions of the European Council meetings held at Birmingham, Edinburgh and Copenhagen stressed the need to

introduce greater transparency into the work of the Union institutions. This regulation consolidates the initiatives that the institutions have already taken with a view to improving the transparency of the decision-making process.

- (4) The purpose of this regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty.
- (5) Since the question of access to documents is not covered by provisions of the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, the European Parliament, the Council and the Commission should, in accordance with Declaration No 41 attached to the Final Act of the Treaty of Amsterdam, draw guidance from this regulation as regards documents concerning the activities covered by those two treaties.
- (6) Wider access should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers, while at the same time preserving the effectiveness of the institutions' decision-making process. Such documents should be made directly accessible to the greatest possible extent.
- (7) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. Each institution should respect its security rules.

⁽¹⁾ OJ C 177 E, 27.6.2000, p. 70.

⁽²⁾ Opinion of the European Parliament of 3 May 2001 (C 27 E, 31.1.2002, p. 39) and Council Decision of 28 May 2001.

- (8) In order to ensure the full application of this regulation to all activities of the Union, all agencies established by the institutions should apply the principles laid down in this regulation.
- (9) On account of their highly sensitive content, certain documents should be given special treatment. Arrangements for informing the European Parliament of the content of such documents should be made through interinstitutional agreement.
- (10) In order to bring about greater openness in the work of the institutions, access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions, but also to documents received by them. In this context, it is recalled that Declaration No 35 attached to the Final Act of the Treaty of Amsterdam provides that a Member State may request the Commission or the Council not to communicate to third parties a document originating from that State without its prior agreement.
- (11) In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks. In assessing the exceptions, the institutions should take account of the principles in Community legislation concerning the protection of personal data, in all areas of Union activities.
- (12) All rules concerning access to documents of the institutions should be in conformity with this regulation.
- (13) In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, with the

additional possibility of court proceedings or complaints to the Ombudsman.

- (14) Each institution should take the measures necessary to inform the public of the new provisions in force and to train its staff to assist citizens exercising their rights under this regulation. In order to make it easier for citizens to exercise their rights, each institution should provide access to a register of documents.
- (15) Even though it is neither the object nor the effect of this regulation to amend national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, Member States should take care not to hamper the proper application of this regulation and should respect the security rules of the institutions.
- (16) This regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies.
- (17) In accordance with Article 255(3) of the EC Treaty, each institution lays down specific provisions regarding access to its documents in its rules of procedure. Council Decision 93/731/EC of 20 December 1993 on public access to Council documents^(*), Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents^(*), European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents^(*), and the rules on confidentiality of Schengen documents should therefore, if necessary, be modified or be repealed,

(*) OJ L 340, 31.12.1993, p. 43. Decision as last amended by Decision 2000/527/EC (OJ L 212, 23.8.2000, p. 9).

(*) OJ L 46, 18.2.1994, p. 58. Decision as amended by Decision 96/567/EC, ECSC, Euratom (OJ L 247, 28.9.1996, p. 45).

(*) OJ L 263, 25.9.1997, p. 27.

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

The purpose of this regulation is:

- (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission (hereinafter referred to as 'the institutions') documents provided for in Article 255 of the EC Treaty in such a way as to ensure the widest possible access to documents;
- (b) to establish rules ensuring the easiest possible exercise of this right; and
- (c) to promote good administrative practice on access to documents.

Article 2

Beneficiaries and scope:

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this regulation.
2. The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.
3. This regulation shall apply to all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union.
4. Without prejudice to Articles 4 and 9, documents shall be made accessible to the public either following a written application or directly in electronic form or through a register. In particular, documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with Article 12.

5. Sensitive defined in documents as Article 9(1) shall be subject to special treatment in accordance with that article.

6. This regulation shall be without prejudice to rights of public access to documents held by the institutions which might follow from instruments of international law or acts of the institutions implementing them.

Article 3

Definitions

For the purpose of this regulation:

- (a) 'document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility;
- (b) 'third party' shall mean any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and third countries.

Article 4

Exceptions

1. The institutions shall refuse access to a document where disclosure would undermine the protection of:
 - (a) the public interest as regards:
 - public security;
 - defence and military matters;
 - international relations;
 - the financial, monetary or economic policy of the Community or a Member State.
 - (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

- commercial interests of a natural or legal person, including intellectual property,
- court proceedings and legal advice,
- the purpose of inspections, investigations and audits,

unless there is an overriding public interest in disclosure.

3. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.
5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.
6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.
7. The exceptions as laid down in paragraphs 1 to 3 shall only apply for the period during which protection is justified on

the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. In the case of documents covered by the exceptions relating to privacy or commercial interests and in the case of sensitive documents, the exceptions may, if necessary, continue to apply after this period.

Article 5

Documents in the Member States

Where a Member State receives a request for a document in its possession, originating from an institution, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the attainment of the objectives of this regulation.

The Member State may instead refer the request to the institution.

Article 6

Applications

1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.
2. If an application is not sufficiently precise, the institution shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents.
3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.
4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.

Article 7

Processing of initial applications

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 2 of this Article.
2. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.
3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.
4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

Article 8

Processing of confirmatory applications

1. A confirmatory application shall be handled promptly. Within 15 working days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her, namely instituting court proceedings against the insti-

tution and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.
3. Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the EC Treaty.

Article 9

Treatment of sensitive documents

1. Sensitive documents are documents originating from the institutions or the agencies established by them, from Member States, third countries or International Organisations, classified as 'Très secret/Top Secret', 'Secret' or 'Confidentiel' in accordance with the rules of the institution concerned, which protect essential interests of the European Union or of one or more of its Member States in the areas covered by Article 4(1)(a), notably public security, defence and military matters.
2. Applications for access to sensitive documents under the procedures laid down in Articles 7 and 8 shall be handled only by those persons who have a right to acquaint themselves with those documents. These persons shall also, without prejudice to Article 11(2), assess which references to sensitive documents could be made in the public register.
3. Sensitive documents shall be recorded in the register or released only with the consent of the originator.

4. An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected in Article 4.
5. Member States shall take appropriate measures to ensure that when handling applications for sensitive documents the principles in this Article and Article 4 are respected.
6. The rules of the institutions concerning sensitive documents shall be made public.
7. The Commission and the Council shall inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions.

Article 10

Access following an application

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge.
2. If a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.
3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.

Article 11

Registers

1. To make citizens' rights under this regulation effective, each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form. References to documents shall be recorded in the register without delay.
2. For each document the register shall contain a reference number (including, where applicable, the interinstitutional reference), the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 4.
3. The institutions shall immediately take the measures necessary to establish a register which shall be operational by 3 June 2002.

Article 12

Direct access in electronic form or through a register

1. The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned.
2. In particular, legislative documents, that is to say, documents drawn up or received in the course of procedures for the adoption of acts which are legally binding in or for the Member States, should, subject to Articles 4 and 9, be made directly accessible.
3. Where possible, other documents, notably documents relating to the development of policy or strategy, should be made directly accessible.
4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.

Article 13

Publication in the Official Journal

1. In addition to the acts referred to in Article 254(1) and (2) of the EC Treaty and the first paragraph of Article 163 of the Euratom Treaty, the following documents shall, subject to Articles 4 and 9 of this regulation, be published in the Official Journal:
 - (a) Commission proposals;
 - (b) common positions adopted by the Council in accordance with the procedures referred to in Articles 251 and 252 of the EC Treaty and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;
 - (c) framework decisions and decisions referred to in Article 34(2) of the EU Treaty;
 - (d) conventions established by the Council in accordance with Article 34(2) of the EU Treaty;
 - (e) conventions signed between Member States on the basis of Article 293 of the EC Treaty;
 - (f) international agreements concluded by the Community or in accordance with Article 24 of the EU Treaty.
2. As far as possible, the following documents shall be published in the Official Journal:
 - (a) initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty or pursuant to Article 34(2) of the EU Treaty;
 - (b) common positions referred to in Article 34(2) of the EU Treaty;
 - (c) directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions.

3. Each institution may in its rules of procedure establish which further documents shall be published in the Official Journal.

Article 14

Information

1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this regulation.
2. The Member States shall cooperate with the institutions in providing information to the citizens.

Article 15

Administrative practice in the institutions

1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this regulation.
2. The institutions shall establish an inter-institutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents.

Article 16

Reproduction of documents

This regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

Article 17

Reports

1. Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.
2. At the latest by 31 January 2004, the Commission shall publish a report on the implementation of the principles of this regulation and shall make recommendations, including, if appropriate, proposals

for the revision of this regulation and an action programme of measures to be taken by the institutions.

Article 18

Application measures

1. Each institution shall adapt its rules of procedure to the provisions of this regulation. The adaptations shall take effect from 3 December 2001.
2. Within six months of the entry into force of this regulation, the Commission shall examine the conformity of Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community⁽⁴⁾ with this regulation in order to ensure the preservation and archiving of documents to the fullest extent possible.
3. Within six months of the entry into force of this regulation, the Commission shall examine the conformity of the existing rules on access to documents with this regulation.

Article 19

Entry into force

This regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.

It shall be applicable from 3 December 2001.

This regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 May 2001.

For the European Parliament

The President
N. Fontaine

For the Council

The President
B. Lejon

⁽⁴⁾ OJ L 43, 15.2.1983, p. 1.

Joint declaration relating to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)

Official Journal L 173, 27.6.2001, p. 5

1. The European Parliament, the Council and the Commission agree that the agencies and similar bodies created by the legislator should have rules on access to their documents which conform to those of this regulation. To this effect, the European Parliament and the Council welcome the Commission's intention to propose, as soon as possible, amendments to the acts establishing the existing agencies and bodies and to include provisions in future proposals concerning the establishment of such agencies and bodies. They undertake to adopt the necessary acts rapidly.
2. The European Parliament, the Council and the Commission call on the institutions and bodies not covered by paragraph 1 to adopt internal rules on public access to documents which take account of the principles and limits in this regulation.

Other regulatory texts governing right of access

European Parliament

- European Parliament decisions of 13 November 2001 (*Official Journal C 140 E, 13.6.2002, p. 116*) and of 14 May 2002 amending Parliament's Rules of Procedure.
- Bureau Decision on public access to European Parliament documents.
Official Journal C 374, 29.12.2001, p. 1

Council of the European Union

Council Decision of 29 November 2001 amending the Council's Rules of Procedure (2001/840/CE).

Official Journal L 313, 30.11.2001, p. 40

European Commission

Commission Decision of 5 December 2001 amending its rules of procedure (notified under document number C(2001)3714)

Official Journal L 345, 29.12.2001, p. 94

European Union

Access to European Parliament, Council and Commission documents

A user's guide

Luxembourg: Office for Official Publications of the European Communities

2002 — 37 pp. — 14.8 x 21 cm

ISBN 92-894-1903-2