DRAFT REPORT

on Public access to Parliament, Council and Commission documents
(implementation of Regulation 1049/2001/EC)
(2003/2022(INI))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Michael Cashman
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At the sitting of 13 February 2003 the President of Parliament announced that the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had been authorised to draw up an own-initiative report, pursuant to Rule 163 of the Rules of Procedure, on Public access to Parliament, Council and Commission documents (implementation of Regulation 1049/2001/EC) and the Committee on Constitutional Affairs had been asked for its opinion.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Michael Cashman rapporteur at its meeting of 18 February 2003.

It considered the draft report at its meeting(s) of ....

At the latter/last meeting it adopted the motion for a resolution by ... votes to ..., with ... abstention(s)/unanimously.

The following were present for the vote: ... chairman/acting chairman; ... and ..., vice-chairman/vice-chairmen; ..., rapporteur; ..., ... (for ...), ... (for ... pursuant to Rule 153(2)), ... and ... .

The opinion of the Committee on Constitutional Affairs is attached.

The report was tabled on ....
MOTION FOR A RESOLUTION


The European Parliament,

– having regard to Article 255 of the EC Treaty, Regulation 1049/2001 and other provisions adopted and/or in the process of being adopted to ensure citizens' right of access to documents of the institutions and agencies,

– having regard to the practical measures taken by the institutions and agencies in 2002 to make the exercise of the right of access effective,

– having regard to Rule 163 of its Rules of Procedure,

– having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Constitutional Affairs (A5-0000/2003),

A. Having noted:

- the work carried out in 2002 by the Interinstitutional Committee established under Article 15 of Regulation 1049/2001,

- the first implementation of the registers by the institutions, and their impact on the organisation of work within these institutions and between them,

- the steps taken to date to ensure a coherent and interinstitutional view of legislative work and to implement the requests formulated by the EP at the time of the adoption of the 2002 Budget,

- the measures taken by the institutions in 2002 to ensure the provision of information to citizens,

- the disputes and/or actions lodged with the Ombudsman and the Community Courts as well as the decisions and recommendations taken by those bodies,

- the Annual Reports for 2002 of the Council (…) and the Commission (………), and the report of the Bureau of the Parliament (…),

B. Taking account of the observations already formulated in March 2002 on the implementation of Regulation 1049/2001,

In general as regards the transparency policy

1. Reaffirms its determination to promote effective transparency in the work of the Union in order to strengthen the democratic principle on which the Union is based (Article 6 para.1 EU Treaty); this need becomes more important at the time when the Union:
- widens to the applicant countries and will consequently effect 470 million European citizens;

- enters into a process of constitutional reform at the end of which its powers and competences will be reorganised and simplified but its impact on daily life could be increased;

2. Considers that at the time of the reform of the Treaties the Convention should confirm the right to information of citizens already provided for in the Charter and reformulate Article 255 in order to remove any interpretative doubts regarding the fact that:

- the right to information and to access of the texts concerns all the institutions and agencies of the Union as is the case for example in the USA in the "Freedom of Information Act";

- access to information should be ensured not only during the decision-making phase at the level of the Union, but also during the implementation by the Member States in order to enable European citizens to know the measures actually being taken at the national level and the effective scope of their rights and obligations;

As regards the measures taken and to be taken on the basis of Regulation 1049/2001

3. Is pleased with the considerable increase in the documents now being placed at the disposal of the citizens, in particular by the Council, but remarks however that if hundreds of thousands of documents become accessible, suitable tools must also be set up to ensure the best possible targeted response to citizens' requests and especially when it is a question of monitoring preparatory legislative work (Recital 6 and Article 12 Regulation 1049/2001):

4. Considers, that from this point of view, the situation is still unsatisfactory as regards:

- the Council, which does not permit the identification of the positions of the various national delegations at the time of the decision-making process: the removal of this information, which is essential to the supervision of national government positions, is against the spirit and the letter of the Regulation 1049/2001, which permits exceptions based on the content of a document (Article 4 par. 7) and not on the basis of the activity of national delegations when acting as a component of the Council;

- the Council and the Commission, which do not give access to the preparatory acts of delegated legislation (e.g. proposals submitted to the Committees assisting the Commission and proposals for executive measures submitted to Coreper);

- the Convention on the Future of Europe, which does not [consider itself bound to] apply the principles of Regulation 1049/2001;

5. Welcomes the measures taken within the institutions for the reorganisation of the coding process, production, filing and distribution of documents, making it possible to identify the authors, the nature of the document and other information necessary for the traceability of documents within each institution. Remarks however that at the
interinstitutional level almost everything still remains to be done and that, notwithstanding the resources invested since 1987 under INSIS and IDA programmes, the institutions have not yet defined:

- a general system of interinstitutional coding, both for the types of documents and for the decisional procedures to which they refer (including the procedures in which the EP is not associated);

- common programmes for the drafting of texts to allow their re-use by the recipient institution, and/or the publication if necessary in the Official Journal (as is already the case for the budgetary documents);

- a common directory of the organisations which intervene in the legislative process (Parliamentary Committees, Coreper and Article 36 Committees)

- except the case of the Parliamentary Committees, the absence of a direct link between the agendas of the Council and of the Commission and the documents for a given meeting;

6. Recalls that Regulation 1049/2001 requires the publication in the Official Journal of the principal preparatory acts (Commission proposal, opinions of the EP, Council common position…) in order to permit a non-discriminatory access for both the citizens and the national parliaments. Remarks however that the practice currently followed by the institutions is very disparate\(^1\) and consequently suggests:

- the establishment, within the framework of the Official Journal, a service for the publication on the Internet of the principal texts adopted within and by the institutions during the legislative procedure. The publication on the interinstitutional site would take place at the same time as the publication on the register of the document in question;

- to include, in this tool for following the inter-institutional legislative procedures, the factual and analytical data already included in the legislative databases, such as Prelex and Oeil, as already indicated in the Resolution approving the 2002 Budget;

7. Invites the Commission to prepare its report on the revision of Regulation 1049/2001 having checked the following elements:....

8. Instructs its President to forward this resolution to the Council and Commission.

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\(^1\) The Commission no longer publishes its proposals, Parliament publishes its opinions only with minutes - one month after the vote, the Council publishes the initiatives and the joint positions, and nobody publishes the common position in the co-decision procedure.