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A7-0156/2013

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RECOMMENDATION

on the proposal for a Council regulation amending Regulation (EEC/Euratom)
No 354/83, as regards the deposit of the historical archives of the institutions at
the European University Institute in Florence
(06867/2013 – C7-0081/2013 – 2012/0221(APP))

Committee on Culture and Education

Rapporteur: Doris Pack

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council regulation amending Regulation (EEC/Euratom) No 354/83, as regards the deposit of the historical archives of the institutions at the European University Institute in Florence
(06867/2013 – C7-0081/2013 – 2012/0221(APP))**

(Special legislative procedure – consent)

The European Parliament,

- having regard to the draft Council regulation (06867/2013),
 - having regard to the request for consent submitted by the Council in accordance with Article 352 of the Treaty on the Functioning of the European Union (C7-0081/2013),
 - having regard to Rule 81(1) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Culture and Education and the opinion of the Committee on Constitutional Affairs (A7-0156/2013),
1. Consents to consent to the draft Council regulation;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

EXPLANATORY STATEMENT

The historical archives of the EU institutions represent an important source of information for the history and legacy of the European Union. Therefore it is essential to provide access to the archives for public consultation and for preservation of information about the EU institutions, and to support research about the history of the European integration.

Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983¹ requires the EU institutions to establish historical archives and to make them available to the public once these documents are 30 years old. The Regulation does not specify a location for the deposit of the EU archives.

In 1984 the European Parliament, the Council and the Commission agreed to deposit their historical archives at the European University Institute(EUI) in Florence, and a specific contract on the terms of the deposit was made in December 1984 between the European Communities, represented by the Commission, and the EUI. The contract also indicates that the Italian government shall provide permanent and free of charge premises for the EUI to keep archives.

The proposal for a Council Regulation which is currently examined under the consent procedure by the European Parliament (rule 81(1) of its rules of procedure) provides a more solid legal and financial framework for the cooperation between the EU and the EUI. At the same time it also enhances the role of the EUI, which is intended to manage the historical archives of the EU institutions.

In terms of content, the proposal does not change the key elements of Regulation 354/ 83, such as the definition of historical archives as well as when and which documents are to be open to the public. The proposal in fact provides for limited amendments to the existing regulation, such as the obligation for each EU institution (except the Court of Justice and the European Central Bank) to deposit at the EUI its historical archives, the principle that each institution shall maintain the ownership of its archives, the system for financing the archives, the protection of personal data contained in the archives, and the making available of the archives by electronic means, wherever possible.

The Rapporteur would like to take the opportunity to underline the good inter institutional cooperation in this field.

In particular the Rapporteur would like to draw the attention to a few developments made in the proposal that she considers quite positive as regards financing, data protection and digitisation.

The proposal clearly states the obligation to finance the EUI from the general budget of the Union through contributions of the depositing institutions and indicates that the financial contributions will cover expenses for management of the archives but not for the provision of

¹ OJ L 43, 15.2.1983, p. 1.

building and repositories, which are to be financed by the Italian government.

The cost-sharing approach suggested is based on the criterion that the size of the contribution will be proportionate to "the size of the respective establishment plans of the depositing institutions" (art. 8.10). This criterion seems quite advantageous for the European Parliament, since given its size it will not make a large financial contribution even though it is likely to deposit a great quantity of historical archives.

The Rapporteur is pleased with the express language that "wherever possible, the institutions shall make their archives available to the public by electronic means, including digitised and born-digital archives, and facilitate their consultation on the internet" (art. 9.1). This takes into account the current realities of the digital archiving process which is not uniform among the various EU institutions. Furthermore, as presently the archives in Europe are facing the challenges of the digital era, the proposal encourages the EU institutions to proceed towards digitisation.

Regarding the sensitive issue of data protection, the proposal clarifies the rules applicable to the archives. In the event that any personal data remains in the archives it highlights the role of the EUI as a "processor" of personal data under Regulation (EC) No 45/2001¹, acting on the instructions of the depositing EU institutions.

The text also recognizes the European Data Protection Supervisor (EDPS) as the authority who shall have supervisory powers over the EU institutions, as foreseen by Reg. 45/ 2001.

In light of the above, the Rapporteur would recommend that Plenary give its consent to the proposed act.

¹ OJ L 8, 12.1.2001, p. 1.

16.4.2013

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS

for the Committee on Culture and Education

on the proposal for a Council regulation amending Regulation (EEC/Euratom) No 354/83, as regards the deposit of the historical archives of the institutions at the European University Institute in Florence
(06867/2013 – C7-0081/2013 – 2012/0221(APP))

Rapporteur: Carlo Casini

SHORT JUSTIFICATION

Historical archives have, since ancient times, played a not insignificant role in the running of Western societies, which relies heavily on the keeping of written records. The fact that, in ancient Rome, the Tabularium (the official records office) was housed in the Forum Romanum, which was the centre of Roman public life, is indicative of their importance.

The historical archives of the EU institutions form part of Europe's cultural heritage and their opening to the public serves academic, educational and cultural objectives and interests. Those interests are protected by the provisions of primary law, under which the Union 'shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced'¹. Furthermore, the Charter of Fundamental Rights stipulates that 'the arts and scientific research shall be free of constraint. Academic freedom shall be respected'.²

The fourth recital of Council Regulation (EEC, Euratom) N°354/83 also states that 'the processing and critical analysis of Community archives [...] can at the same time facilitate the activities of bodies involved in Community affairs and thereby contribute to the better attainment of all the Communities' objectives'.

The Commission proposal seeks to confirm the role of the European University Institute (EUI) in Florence in managing the historical archives of the institutions and to create a sound

¹ Article 3(3), subparagraph 4 of the Treaty on European Union.

² Article 13 of the Charter.

legal and financial basis for the partnership between the EU and the EUI¹. It would therefore be contrary to the aims of the proposal for the EUI to find itself in a less favourable legal or financial position than it is now² once the text has been adopted.

The Commission proposal (COM(2012)0456), as amended by the Council, would improve the situation by establishing the following institutional arrangements:

- The institutions, including the European External Action Service, will be required under EU secondary law to deposit their historical archives with the EUI.
- Owing to the specific nature of their activities, the European Court of Justice and the European Central Bank will not be covered by this obligation. They will, however, be entitled to deposit their historical archives with the EUI on a voluntary basis.
- The deposit of the historical archives of the institutions at the EUI will not affect the ownership or protection of the archives as provided for in Article 2 of the Protocol on the Privileges and Immunities of the European Union annexed to the Treaty.
- Each depositing institution will be able to obtain information on the management of its archives by the EUI and to carry out an inspection.
- Archive management costs will be covered by contributions from the EU budget. The costs will be shared among the institutions on the basis of objective criteria.
- Each institution will be required to adopt internal rules governing the implementation of the regulation.
- The Commission will be required to conclude, on behalf of the depositing institutions, a framework partnership agreement with the EUI setting out detailed provisions on the mutual roles and responsibilities of the EU institutions and the university institute. That agreement must be in keeping with the provisions of the regulation itself and of the Treaties.

On the above basis, the rapporteur recommends that the Committee on Constitutional Affairs should call on the Committee on Culture and Education, as the committee responsible, to propose that Parliament give its consent.

The Committee on Constitutional Affairs calls on the Committee on Culture and Education, as the committee responsible, to propose that Parliament give its consent.

¹ COM(2012)0456, Explanatory Memorandum, point 1.2.

² which is determined primarily by the agreement signed on 17 December 1984 between the European Communities, as represented by the Commission, and the EUI.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	15.4.2013
Result of final vote	+: 18 -: 1 0: 1
Members present for the final vote	Andrew Henry William Brons, Carlo Casini, Andrew Duff, Roberto Gualtieri, Enrique Guerrero Salom, Daniel Hannan, Stanimir Ilchev, Constance Le Grip, Paulo Rangel, Rafał Trzaskowski, Manfred Weber, Luis Yáñez-Barnuevo García
Substitute(s) present for the final vote	John Stuart Agnew, Sandrine Béliet, Zuzana Brzobohatá, Dimitrios Droutsas, Marietta Giannakou, Helmut Scholz, György Schöpflin, Alexandra Thein
Substitute(s) under Rule 187(2) present for the final vote	François Alfonsi, Syed Kamall, Georgios Koumoutsakos, Ioannis A. Tsoukalas

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	23.4.2013
Result of final vote	+: 22 -: 0 0: 0
Members present for the final vote	Zoltán Bagó, Lothar Bisky, Jean-Marie Cavada, Mary Honeyball, Petra Kammerevert, Morten Løkkegaard, Emilio Menéndez del Valle, Marek Henryk Migalski, Katarína Neveďalová, Doris Pack, Monika Panayotova, Marie-Thérèse Sanchez-Schmid, Marietje Schaake, Marco Scurria, Hannu Takkula, László Tőkés, Helga Trüpel, Sabine Verheyen
Substitute(s) present for the final vote	Ivo Belet, Nadja Hirsch, Stephen Hughes, Seán Kelly