



*Committee on Foreign Affairs
The Chair*

4.7.2023

Mr Juan Fernando López Aguilar
Chair
Committee on Civil Liberties, Justice and Home Affairs

Subject: Opinion on the proposal for a regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies of the Union (COM(2022)0119 – C9-0121/2022 – 2022/0084(COD))

Dear Mr López Aguilar,

Under the procedure referred to above, the Committee on Foreign Affairs has been asked to submit an opinion to your Committee. During the meeting of 11 May 2022, the Coordinators of the Committee on Foreign Affairs decided to send the opinion in the form of a letter.

The Committee on Foreign Affairs adopted the opinion with Mr Urmas Paet as Rapporteur during the 27 June 2023 Committee meeting¹ and called on the Committee responsible to incorporate the following suggestions into its report.

Yours sincerely,

David McAllister

¹ The following were present for the final vote: David McAllister (Chair), Witold Jan Waszczykowski (Vice-Chair), Željana Zovko (Vice-Chair), João Albuquerque, Alexander Alexandrov Yordanov, François Alfonsi, Maria Arena, Margrete Auken, Petras Auštrevičius, Traian Băsescu, Ioan-Rareș Bogdan, Anna Bonfrisco, Marc Botenga, Fabio Massimo Castaldo, Susanna Ceccardi, Włodzimierz Cimoszewicz, Katalin Cseh, Angel Dzhambazki, Cyrus Engerer, Anna Fotyga, Hélène Fritzon, Michael Gahler, Kinga Gál, Giorgos Georgiou, Markéta Gregorová, Irena Joveva, Rasa Juknevičienė, Karol Karski, Dietmar Köster, Andrey Kovatchev, Andrius Kubilius, Jean-Lin Lacapelle, Katrin Langensiepen, David Lega, Miriam Lexmann, Nathalie Loiseau, Antonio López-Istúriz White, Karsten Lucke, César Luena, Jaak Madison, Lukas Mandl, Thierry Mariani, Marisa Matias, Vangelis Meimarakis, Sven Mikser, Francisco José Millán Mon, Alessandra Moretti, Matjaž Nemec, Demetris Papadakis, Kostas Papadakis, Tonino Picula, Thijs Reuten, María Soraya Rodríguez Ramos, Bert-Jan Ruissen, Christian Sagartz, Nacho Sánchez Amor, Isabel Santos, Jacek Saryusz-Wolski, Mounir Satouri, Radosław Sikorski, Jordi Solé, László Trócsányi, Harald Vilimsky, Viola von Cramon-Taubadel, Thomas Waitz, Mick Wallace, Charlie Weimers, Isabel Wiseler-Lima, Salima Yenbou, Tomáš Zdechovský, Bernhard Zimniok, Marco Zullo..

SUGGESTIONS

In a moment of rapid geopolitical changes combined with evolving new types of threats, the Union's information security is increasingly put at risk. International crises demonstrate the need for the EU to obtain credible and first-hand information on current and possible external threats to the EU, in order to be able to react rapidly and effectively, as well as to better protect its interests abroad and its citizens. Foreign interference and disinformation are also posing a real danger to EU democratic processes and Union institutions, bodies, offices and agencies should receive the adequate means and resources to face these new challenges.

From a foreign affairs and security perspective, and as underlined in several Parliament's resolutions on the implementation of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), the Parliament should be provided with the necessary information and documents in a transparent and timely manner in order to properly fulfil its important role of democratic oversight. This is why the strengthening and harmonisation of the categorisation, handling and storage of EU classified information and for non-classified information is key.

The Rapporteur welcomes this timely Commission proposal, which is part of the EU Security Union Strategy adopted by the Commission in July 2020 as Union institutions, bodies, offices and agencies need to be equipped with an appropriate common high level of security for EU classified information and for non-classified information. Also, the Rapporteur welcomes the fact that the proposed regulation intends to create a minimum set of rules and to establish an inter-institutional information security coordination group, a necessary step towards the harmonisation for ensuring a smooth implementation of an EU information security culture.

Notwithstanding this welcomed effort to facilitate and harmonise the protection of information in EU institutions, bodies and agencies, Parliament recalls the urgent need to upgrade the inter-institutional framework for Parliament's access to confidential information in the field of CFSP/CSDP. Furthermore, there is also an urgent need to develop strategic information exchange between CSDP missions, particularly among civilian missions, between civilian and military and between the headquarters and the field.

1. The above-mentioned elements regarding the institutional prerogatives need to be properly clarified in Article 32: while the originator control is an undisputable principle, the text should be better formulated as it should not prevail on Treaty prerogatives. Also, Article 54 should be further clarified: for the Parliament, it is not about the "proven need for an exchange" but rather "*on the basis of the need-to-know principle*".
2. The proposal should clarify that Members of the European Parliament should have access by virtue of their mandate to all necessary information on the basis of the 'need-to-know principle' in order to exercise the powers vested to them by the Treaties. Therefore, the proposal should include the following new paragraph (as AM 3 from ITRE opinion):

"(new paragraph). Members of the Union institutions should have access by virtue of their mandate to all necessary information on the basis of the 'need-to-know principle'

in order to exercise the powers vested to them by the Treaties.”

3. The issue about over-classification is essential for the Parliament, with the creation of a mechanism to discuss such cases, the proposal should include the following new paragraph (from AFCE AM 37):

“(new paragraph). In the event of any doubt as to the confidential nature of an item of information or its appropriate level of classification, the originator and the recipient shall consult each other without delay and before transmission of the document. In the event of a disagreement, the matter shall be referred to the political authorities of each institutions involved so that they may resolve the dispute.”

4. Foreign interference and disinformation are posing a real danger to EU democratic processes and Union institutions, bodies, offices and agencies should receive the adequate means and resources to face these new challenges. The proposal should include the following new paragraph (from AFCE AM 23):

“(new paragraph). When developing and implementing their document security framework, Union institutions and bodies shall safeguard the integrity of EU democratic processes. They shall adopt, inter alia, specific provisions in tender procedures to curb the risk of foreign interference in their functioning. Such provisions shall at least address the acquisition and maintenance of security infrastructure, the vetting of third party organisations and the clearance of staff.”

5. AFCE calls on LIBE Committee as the Committee responsible to reconsider whether the establishment of the category of “NORMAL” information (Article 13 of the proposal) provides sufficient benefits that would outweigh the additional administrative requirements that would arise from the creation and application of this category of information and its distinction from “PUBLIC USE” information.