



**Michael CASHMAN**

Member of the European Parliament

Concerns: Note on transparency sent by Vice-President of the Commission Šefčovič to the Conference of Presidents

Strasbourg, 28 September 2011  
Ref: 280911/RRS

Dear President of the European Parliament,

Dear Members of the Conference of Presidents,

I am writing to you with regards to the letter sent by Vice President of the Commission Šefčovič on 26 September 2011 to the Conference of Presidents relating to the amendment of Regulation (EC) No 1049/2001 on access to documents.

As the letter correctly states, the issue at stake is the "lisbonisation" of Regulation (EC) No 1049/2001 by creating a sound legal framework for access to documents of all EU institutions, offices, bodies and agencies.

The point, on which I can not agree, and neither can the majority of the political groups as expressed in the recently voted Hautala/Sargentini Annual Report on access to documents, is the fact that the two Commission proposals submitted in 2008 and 2011 fulfil such an objective.

**CONFERENCE OF PRESIDENTS**

*Jerzy BUZEK, President of the European Parliament*

*Joseph DAUL, Member of the European Parliament*

*Martin SCHULZ, Member of the European Parliament*

*Guy VERHOFSTADT, Member of the European Parliament*

*Jan ZAHRADIL, Member of the European Parliament*

*Rebecca HARMS, Member of the European Parliament*

*Daniel COHN-BENDIT, Member of the European Parliament*

*Lothar BISKY, Member of the European Parliament*

*Francesco Enrico SPERONI, Member of the European Parliament*

*Nigel FARAGE, Member of the European Parliament*

On the contrary, the 2008 proposal was a limited revision of Regulation 1049/2001 which was not even dealing with the issue of the extension of the right to access to documents which was foreseen by the Lisbon Treaty, whose ratification was already under way. In reaction to this, the European Parliament voted several substantial amendments in 2009 to prepare the transition to the new Treaty regime. Therefore, at the time, we refrained from voting the legislative resolution because the Commission declared that it was not open to modify its proposal without a support by the majority of Member States in the Council. In fact what happened thereafter was a procedural quarrelling which in reality reflected the lack of willingness of many Member States in the Council to improve the existing legal framework.

Having faced the same situation ten years ago, we would have expected a more proactive attitude by the Commission but nothing happened and no initiative was taken for months after the entry into force of the Lisbon Treaty and several European Court of Justice judgements, many of which supporting the line taken by the EP Plenary in 2009.

However, and without any preparatory dialogue with the Council and the Parliament, the Commission submitted, in March of this year, a second legislative proposal which simply extends the scope of Regulation 1049/01 to all the EU institutions, agencies, offices and bodies as indicated by art. 15.3 of the TFEU but without amending the content of the Regulation differentiating the legal regime for legislative and administrative activities. As such, according to the EP legal service, the second Commission proposal does not bring any added value to the direct applicability of art. 15 of the TFEU and article 42 of the now binding Charter of Fundamental Rights.

I have therefore decided with the support of a majority of the political groups to do what the Commission was unwilling to do and I updated on 1 September 2011 my initial May 2010 draft report by proposing changes in line with the new legal Treaty framework as well as with the plenary position as outlined in the Hautala-Sargentini report voted in September.

Instead of reacting to the plenary recommendation and my updated report (publicly accessible on the EP site since 1 September), quite surprisingly, Vice President Šefčovič has submitted to you some observations on the pre-Lisbon outdated 2009 version of my report and asks the Parliament to adopt the Commission 2011 legislative proposal which, at best, is a cosmetic amendment of regulation 1049/01.

I fail to understand the strategy followed on this issue by the Commission, but, as a Member of the European Parliament, I am determined to follow the strategy adopted this month by the plenary, and I hope that before the end of this year my report could obtain the majority of this House.

It will be then up to the Council to take its responsibility under the Danish Presidency, at the beginning of 2012. My belief is that, twenty years after the first negative Danish referendum which obliged the Community to choose the way of transparency, the new Presidency will be able to take the lead and gather the necessary support within the Council.

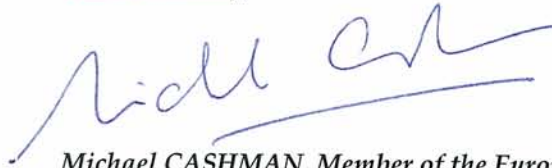
The European Parliament should not back down on its position it has followed for the last ten years, and which has been strongly supported by the civil society, academics, the European Data Protection Supervisor and the European Ombudsman. Now is not the time to compromise on transparency.

I strongly believe that a European Union which is under increasing economic and institutional stress needs a firm and essential support from the citizens especially if our

policies will impact on their economic and social rights. I am also convinced that two years after the entry into force of the Lisbon Treaty and at the start of the second half of this legislature we can not explain to our electorate that we gave up on our duty to grant the transparency required by the Treaties and by the Charter . I would not be able to explain this to our electorate. And I trust you will not either.

I am of course ready to come and discuss this issue with the Conference of Presidents and stay at your disposal for any further queries you may have.

Yours sincerely,



**Michael CASHMAN, Member of the European Parliament**

*Rapporteur on Regulation 1049/2001 - Public Access to Documents of EU institutions, offices, bodies and agencies*

*Carbon copy: Juan Fernando LOPEZ AGUILAR, Chair of the LIBE Committee*