NON-PAPER

ARTICLE 255

Article 1
General principle and beneficiaries

1. Any citizen of the European 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, limits and conditions defined in the present Regulation.

2. The institutions may under the same conditions grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.

3. The institutions shall according to their own Rules of Procedure determine which categories of documents will be directly accessible to the public, especially those relating to their legislative activities.

4. This Regulation does not deprive citizens of the Union of rights concerning access to documents acquired under instruments of international law.

Article 2
Scope

1. This Regulation shall apply to all documents held by an institution, that is to say, documents drawn up by it or received from third parties and in its possession, in all areas of activity of the Union.

2. Documents which are special on account of the sensitivity of their content will receive a special procedural treatment.

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); only documents concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility, excluding texts for internal use such as discussion documents, opinions of departments, unfinished documents or documents in preparation and contents which express personal opinions reflecting views as part of preliminary consultations and deliberations within the institutions, shall be covered;

(b) "special documents" shall mean documents in the field of security and defence classified as "Top Secret", "Secret" or "Confidential" because of the sensitivity of their content;

(c) "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 non-member countries.

Article 3 A
Applications

1. Applications for access to a document shall be made in writing 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.

2. If an application is not sufficiently precise the institution shall ask the applicant to specify the application and assist the applicant in doing so, e.g. by providing the applicant with information on the use of the public registers of documents.

3. In the event of general and repetitive applications or applications relating to very large documents or a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

Article 4
Exceptions

1. The institutions shall refuse access to documents where disclosure could undermine the protection of:

   a) the public interest as regards:

      - public security;
      - defence and military matters;
      - international relations;
      - relations between the Member States and the institutions of the Community, or between the institutions of the Community and non-Community institutions;
      - the financial, monetary or economic policy of the Community or of the Member States;
      - court proceedings;
      - inspections, investigations and audits.

   b) privacy and the integrity of the individual as protected in particular by Community legislation regarding the protection of personal data.

c) economic interests of a natural or legal person concerning in particular:

- business and commercial secrets;
- intellectual and industrial property;
- information on costs and tenders in connection with award procedures before these procedures are completed.

2. Access to a document may be denied if its disclosure could seriously undermine the effectiveness of the institution's decision-making process, unless it is clearly in the public interest to disclose the document.

3. The institutions shall not release a document if the Member State or the other third party from which the document originates has requested the institution concerned not to disclose it without its prior agreement.

Article 5
Processing of initial applications

1. Applications for access to documents shall be handled promptly. In any case, within one month from registration of the application, the institution shall either grant the applicant access to all the documents applied for or, in a written reply, inform the applicant of the reasons for the total or partial refusal and of his right to make a confirmatory application in accordance with paragraph 2.

   Initial applications for special documents shall be handled only by those persons who have a right to acquaint themselves with these documents.

2. In the event of a total or partial refusal, the applicant may, within one month from receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.

3. In exceptional cases, e.g. in the event of an application relating to very large documents or to a very large number of documents, the one-month time-limit provided for in paragraph 2 may be extended by one month, provided that the applicant is notified in advance and that detailed reasons are given.

4. Failure to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

Article 6
Processing of confirmatory applications

1. A confirmatory application shall be handled promptly. In any case, within one month from registration of such application, the institution shall either grant access to the documents requested or, in a written reply, state the reasons for total or partial refusal. Should the institution deny access in total or in part it shall inform the applicant of the remedies open to him, namely instituting court proceedings against the institution and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively, and in the relevant provisions of the Treaty on European Union.

   Confirmatory applications for special documents shall be handled only by those persons who have a right to acquaint themselves with these documents.

2. In exceptional cases, e.g. in the event of the application relating to very large documents or to a very large number of documents,the time-limit provided for in paragraph 1 may be extended by one month, 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 entitle the applicant to refer the matter to the Ombudsman and/or to the Court of Justice, under the relevant provisions of the Treaties.

Article 7
Exercise of the right to access

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, according to his preference.

   The cost of his doing so may be charged to the applicant.

2. If a document is already published and is easily accessible to the applicant, especially via the Internet, the institution may inform him how to obtain it.

3. Documents shall be supplied in the language version requested by the applicant, or in the language of the application, provided that language version is available.

4. Documents shall be supplied in the form requested by the applicant if they are already available in that form, e.g. electronically or in an alternative format, such as Braille, large print or tape.

5. If only parts of the requested document are covered by any of the exceptions in Article 4, the remaining parts of the document shall be released.

Article 8
Reproduction for commercial purposes or other forms of economic exploitation

An applicant who has obtained a document may not reproduce it for commercial purposes or exploit it for any other economic purpose without the prior authorisation of the rightholder.

Article 9
Information and registers

1. Each institution shall take the requisite measures to inform the public of the rights they enjoy arising from this Regulation. Furthermore, to make it easier for citizens to exercise their rights arising from this Regulation, each institution shall provide access to a register of documents.

2. No reference shall be made in the public register to the subject-matter of a document if disclosure of that information could undermine the protection of the interests referred to in Article 4 (1).

Article 10
Effect

Each institution shall adopt in its Rules of Procedure the provisions required to give effect to this Regulation. Those provisions shall take effect on ... [three months after the adoption of this Regulation].

Article 11
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 ... [three months from the date of adoption of this Regulation].

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

For the European Parliament
The President

For the Council
The President