

EUROPEAN PARLIAMENT

COMMITTEE ON CITIZENS' FREEDOMS AND RIGHTS, JUSTICE AND HOME AFFAIRS

WORKING SEMINAR

<p>“Access to documents of the EU institutions: the key to a more democratic and efficient Union”</p>
--

**Monday 18 September 2000 from 09h15 to 12h30
and 15h00 to 18h30**

Rue Wiertz, 60
Altiero Spinelli Building, room 1G 3
Brussels

The Treaty of Amsterdam introduced Article 255 which sets out a right of access to documents of the European Parliament, the Council and the Commission. This article should be read in the context of the constitutional principle in Article 1 of the Treaty on European Union which states that decisions should be taken as openly as possible and as close as possible to the citizens.

Public access to the documents of the EU institutions can be considered an essential element in ensuring the democratic control of the institutions as well as the efficient functioning of the institutions. Indeed, declaration 17 of the Treaty of Maastricht states that « *transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration* ». The importance of freedom of information has also been recognised in the international context.

The Commission proposal for a regulation, adopted in January 2000, broadly represents the *status quo* of the current code of conduct and the jurisprudence of the Court of Justice. However, the implementation of a measure on the access to documents should, within the constraints imposed by the Treaty, seek to give the fullest effect to Article 255 to ensure that the objective in Article 1 of the Treaty on European Union is achieved.

The aim of the seminar is to provide an overview of the general principles which should apply to the right of access to documents as well as the scope of Article 255 and the regulation proposed by the Commission to implement that article. Experts will be invited to present their views and then to respond to questions of the members of the national parliaments (in view of their experience and interest in this field) and of the European Parliament. (Questions will be of one minute followed by responses of three minutes).

The seminar is also open to representatives of the other EU institutions and representatives of civil society.

Monday 18 September 2000

09h00-12h30 **First half-day**

“Role of access to documents for democracy and good administration”

9h15 : **Opening of proceedings by Michael CASHMAN**, Committee on Citizens' Freedoms and Rights, Justice and Home Affairs.

9h30: **Transparency and democracy: the need for public supervision of the activities of the EU institutions**

- role of public access to information for the protection of public interests, e.g. the protection of the environment,
- role of public access to information for the development of public opinion,
- role of public access to information for the supervision of representatives to and officials of the EU institutions - role of the national parliaments
- relationship with fundamental rights such as freedom of expression
- limits of the present system and the opportunity for reform

Two speakers- the following will be invited to speak:

Representative from the European Federation of Journalists

Representative (Ralph HALLO) from the European Environmental Bureau

Representative from Article 19

10h00 : **Debate**

11h00 : **Transparency and “good administration”: impact on the internal functioning of the institutions**

- meaning of “good administration”
- the relationship with the internal rules of procedure
- need for a register of documents and the classification of documents
- modalities for access
- scope of the “*space to think*” for the institutions
- relationship with obligations of professional secrecy of the officials
- best practice in the Member States

Two/three speakers - the following will be invited to speak:

Jacob SODERMAN, the European Ombudsman

David O’SULLIVAN, Secretary General of the European Commission

[Representative of the Council]

11h30 : **Debate:**

12h30 : **End of morning session**

* * *

15h00-18h30 **Second half-day**

“Scope and modalities of a right of access to documents”

15h00 : **Opening of proceedings by Johanna MAIJ-WEGGEN**, Committee on Constitutional Affairs.

- 15h15 : **The scope of Article 255 in the context of openness and transparency**
- scope of Article 255 – a restrictive interpretation or a broad interpretation
 - case-law of the European Court of Justice
 - right to documents or a right to information
 - the institutions subject to the obligation of access
 - a right to appeal against the refusal of access
 - the impact on national legislation giving access to EU documents

Two speakers - the following will be invited to speak:

Deirdre CURTIN, Professor of the law of international organisations, University of Utrecht

[Judge/Advocate-General of the European Court of Justice]

15h45 : **Debate:**

16h30 : **Transparency versus the protection of other interests**

- interests which should be protected,
- specific issues raised by the second and third pillars
- the harm test and balancing transparency against the interest to be protected,
- mandatory or discretionary exceptions
- scope of interests to be protected and whether the definition in national, international or EU law should apply

Two/three speakers - the following will be invited to speak:

[Representative from the Council (Javier SOLANA, Secretary General/High representative)

Representative from NATO

Representative from EUROPOL

Representative from a data protection agency]

17h00 : **Debate:**

18h00 : Tour de table - Conclusions from the seminar

Graham WATSON, Chairman of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Giorgio NAPOLITANO, Chairman of the Committee on Constitutional Affairs.

Michael CASHMAN, the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Johanna MAIJ-WEGGEN, the Committee on Constitutional Affairs

Heidi HAUTALA, the Committee on Legal affairs, internal market

Diemut R.THEATO, the Committee on Budgetary control

Astrid THORS, the Committee on Petitions

Cecilia MALSTROM, the Committee on Foreign affairs, human rights, security, defence

18h30 : End of the Seminar

* * *

Requests to speak should be presented by members of the national parliaments or of the European Parliament when each new item is announced, and will be granted at the discretion of the session Chairman if the established timetable permits.

Speakers are kindly requested to forward their contributions to the Secretariat, in English or French in advance of the seminar, so that copies of them can be made available. Contributions from representatives of civil society and other interest groups should also be sent to the Secretariat and representatives should bring sufficient copies if they would like them distributed.