

**BASIC TEXTS**

**ON**

**TRANSPARENCY**

## CONTENTS

I.	Declaration No 17 annexed to the Final Act of the Treaty on European Union (7 February 1992)	3
II.	Birmingham Declaration (16 October 1992)	5
III.	Conclusions of the Edinburgh European Council on transparency and implementation of the Birmingham Declaration (12 December 1992)	7
IV.	Council Resolution on the quality of drafting of Community legislation (8 June 1993)	11
V.	Conclusions of the Copenhagen European Council on access to information (20 June 1993)	13
VI.	Interinstitutional Agreement between the European Parliament, the Council and the Commission on democracy, transparency and subsidiarity (25 October 1993)	16
VII.	Council Decision of 6 December 1993 adopting the Council's Rules of Procedure	19
VIII.	Code of Conduct concerning public access to documents, approved by the Council and the Commission on 6 December 1993	28
IX.	Council Decision on public access to Council documents (20 December 1993)	31
X.	Council conclusions on transparency approved on 29 May 1995	34
XI.	Council reply to Parliamentary Question by Jens-Peter BONDE on measures to promote transparency (20 July 1995)	37
XII.	Code of Conduct on public access to the minutes and statements in the minutes of the Council acting as legislator (2 October 1995)	40
XIII.	Decision of the Secretary-General of the Council relating to fees in the context of public access to Council documents (27 February 1996).	45

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I.

**Declaration No 17 annexed to the Final Act  
of the Treaty on European Union  
(7 February 1992)**

Selected instruments taken from the Treaties, Book I, Volume 1

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## DECLARATION (No 17)

### on the right of access to information

(7 February 1992)

The Conference considers that transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration. The Conference accordingly recommends that the Commission submit to the Council no later than 1993 a report on measures designed to improve public access to the information available to the institutions.

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**II.**

**Birmingham Declaration**

**(16 October 1992)**

Bulletin of the European Communities, No 10-1992

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*Annex I***Birmingham Declaration — A community close to its citizens** (16 October 1992)

□ Reference: Commission communication on the principle of subsidiarity: point 1.1.1 of this Bulletin

1.8. We reaffirm our commitment to the Maastricht Treaty: we need to ratify it to make progress towards European Union if the Community is to remain an anchor of stability and prosperity in a rapidly changing continent, building on its success over the last quarter of a century.

As a community of democracies, we can only move forward with the support of our citizens. We are determined to respond to the concerns raised in the recent public debate. We must:

- demonstrate to our citizens the benefits of the Community and the Maastricht Treaty;
- make the Community more open, to ensure a better informed public debate on its activities;
- respect the history, culture and traditions of individual nations, with a clearer understanding of what Member States should do and what needs to be done by the Community;
- make clear that citizenship of the Union brings our citizens additional rights and protection without in any way taking the place of their national citizenship.

Foreign Ministers will suggest ways, before the Edinburgh European Council, of opening up the work of the Community's institutions, including the possibility of some open Council discussion — for example on future work programmes. We welcome the Commission's offer to consult more widely before proposing legislation, which could include consultation with all the Member States and a more systematic use of consultation documents (Green Papers). We ask the Commission to complete by early next year its work on improving public access to the information available to it and to other Community institutions. We want Community legislation to become simpler and clearer.

We stress the European Parliament's important role in the democratic life of the Community and we welcome the growing contacts between national parliaments and the European Parliament. We reaffirm that national parliaments should be more closely involved in the Community's activities. We shall discuss this with our parliaments. We welcome the Commission's readiness to respond positively to

requests from national parliaments for explanations of its proposals. We underline the importance we attach to the Conference of Parliaments and to the Committee of the Regions.

We reaffirm that decisions must be taken as closely as possible to the citizen. Greater unity can be achieved without excessive centralization. It is for each Member State to decide how its powers should be exercised domestically. The Community can only act where Member States have given it the power to do so in the Treaties. Action at the Community level should happen only when proper and necessary: the Maastricht Treaty provides the right framework and objectives for this. Bringing to life this principle — 'subsidiarity', or 'nearness' — is essential if the Community is to develop with the support of its citizens. We look forward to decisions at Edinburgh on the basis of reports on:

- adapting the Council's procedures and practices — as the Commission for its part has already done — so that the principle becomes an integral part of the Community's decision-making, as the Maastricht Treaty requires;
- guidelines for applying the principle in practice, for instance by using the lightest possible form of legislation, with maximum freedom for Member States on how best to achieve the objective in question. Community legislation must be implemented and enforced effectively, and without interfering unnecessarily in the daily life of our citizens.

We shall also have a look at the first fruits of the Commission's review of past Community legislation with examples.

Making the principle of subsidiarity work should be a priority for all the Community institutions, without affecting the balance between them. We will seek an agreement about this with the European Parliament.

The Maastricht Treaty will bring direct benefits to individual citizens. All of us — Council, Commission and Parliament — must do more to make this clear.

The European Council, in conformity with the responsibilities given to it by the Treaty, will ensure that the fundamental principles of the European Union will be fully observed.

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**III.**

**Conclusions of the Edinburgh European Council on transparency and  
implementation of the Birmingham Declaration  
(12 December 1992)**

Bulletin of the European Communities, No 12-1992

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### *Annex 3 to Part A*

#### **Transparency — Implementation of the Birmingham declaration**

(12 December 1992)

##### *Access to the work of the Council*

*I.24.* The process of opening up the work of the Council will start in the following areas:

(a) *Open debates on work programme and on major initiatives of Community interest*

(i) Open orientation debates on relevant Presidency or Commission work programmes, in both the General Affairs Council and the Ecofin (Economic and Financial Affairs) Council. The timing will be for decision by the Presidency.

(ii) There should be regular open debates on major issues of Community interest. It will be for the Presidency, any Member State or the Commission to propose issues for open debate. The decision will be taken by the Council on a case-by-case basis.

(b) *Legislation*

Major new legislative proposals will, whenever appropriate, be the subject of a preliminary open debate, in the relevant Council, on the basis of the Commission's legislative proposal. It will be for the Presidency, any Member State or the Commission to propose specific subjects for a debate. The decision will be taken by the Council on a case-by-case basis. Negotiations on legislation in the framework of the Council shall remain confidential.

(c) *Publication of voting records*

When a formal vote is taken in Council, the record of the vote (including explanations of vote where delegations request these) shall be published.

(d) *The decision on holding an open debate on a specific item under point (a ii) and (b) shall be taken by unanimity.*

(e) *'Public access' will be achieved by televising the debate for viewing in the press area of the Council building.*

##### *Information on the role of the Council*

##### **Transparency of the Council's decisions**

*I.25.* Extension to all Council formations of the practice, established over the years in most Councils, of publishing a full description in the press release of the conclusions reached by the Council (exceptions being made for cases where such information would damage the interests of the Member States, the Council, or the Community — e.g. negotiating mandates). More systematic emphasis on publication of explanatory summaries concerning important 'A' points adopted at the Council. Greater efforts to

be made when drafting conclusions to make them understandable to the public.

Better background information on Council decisions (e.g. objective, history, link to other subjects) to be made available, if possible for distribution at pre-Council press briefings, in the form of background notes prepared by the Secretariat in user-friendly terms. This initiative could be extended in the future to cover matters relating to common foreign and security policy and internal and justice affairs, taking into account the specific need for confidentiality in some areas.

Systematic background pre-Council press briefings by Presidency, assisted by Council Secretariat (today not all Presidencies hold such briefings and often they are limited to the national press corps).



Publication of the common positions established by the Council under the procedures of Articles 189b and 189c and the explanatory memorandum accompanying them.

It is important to make all information material available rapidly in all Community languages.

#### **Increase in general information on the role and the activities of the Council**

*I.26.* The annual report, which is currently published after long delays, to be published from now on early in the new year on the responsibility of the Secretary General. Aim to make it more interesting and more understandable to the public — and complementary to, rather than duplicating, the Commission's annual report. There should also be a short summary aimed at broad circulation.

Increase in the Council's information activities in general including a reinforcement of the Press Service. Stepping up of the already quite intensive information activity (group visits) performed by the services of the Secretariat. Establishing a programme for visits of journalists — particularly EC news editors — not based in Brussels (in cooperation with the Commission).

#### **Cooperation and more rapid transmission of material**

*I.27.* Activating the existing information group of the Council and extending it to the other institutions with a view to developing coordinated information strategies.

Cooperation between Member States and Community institutions in the information field.

Use of new communication technologies: databases, electronic mail for making information available outside Council meeting places (Brussels/Luxembourg).

#### ***Simplification of and easier access to Community legislation.***

##### **Making new Community legislation clearer and simpler**

*I.28.* While the technical nature of most texts and the need to compromise among the various national positions often complicate the drafting process, practical steps should nevertheless be taken to improve the quality of Community legislation, such as the following:

guidelines for the drafting of Community legislation should be agreed upon, containing criteria against which the quality of drafting of legislation would have to be checked;

delegations of Member States should endeavour, at all levels of the Council proceedings, to check more thoroughly the quality of legislation;

the Council Legal Service should be requested to review draft legislative acts on a regular basis before they are adopted by the Council and make suggestions where necessary for appropriate redrafting in order to make such acts as simple and clear as possible;

the jurist-linguist group, which does the final legal editing of all legislation before it is adopted by the Council (with the participation of national legal experts), should give suggestions for simplifying and clarifying the language of the texts without changing their substance.

##### **Making existing Community legislation more accessible**

*I.29.* Community legislation can be made more readily accessible in a concise and intelligible form through a speedier and more organized use of consolidation or codification; an improvement of the Celex database system should also be considered.

*Improving and organizing consolidation or codification of Community legislation*

The two possible approaches — unofficial consolidation and official codification — must be carried out in parallel:<sup>1</sup>

The Office for Official Publications of the European Communities has an important role to play in respect of unofficial consolidation. Planning of this began some time ago and a new system will be operated as from 1993 on, whereby the consolidated version of all Community legislation undergoing amendments can be made automatically available following any such amendment; two years later, the system should be able to cover the whole of Community legislation (including past legislation) provided that there is adequate funding. Consolidated legislation should be immediately published (in the C series of the Official Journal), possibly after adding the 'considérants', and/or made available through Celex.

Official codification is important because it provides legal security as to the law which is applicable at a certain moment concerning a specific issue.

Since official codification can only be done through the relevant legislative procedures, priorities need to be established and an accelerated working method agreed upon between the three institutions which have legislative powers.

- Official codification should take place on the basis of agreed priorities. The Commission will propose such priorities in its work programme after appropriate consultation.
- A jointly acceptable accelerated working method should be sought allowing codified Community law (replacing existing legislation without changing its substance) to be adopted in a speedy and efficient way; a consultative group composed of the Legal Services of the Commission, the Council and the Parliament would help to carry out the necessary ground work to permit the adoption of codified Community legislation as rapidly as possible under the Community's normal decision-making procedure.

*Strengthening the Celex data system<sup>2</sup>*

Celex should be improved with a view to

- catching up with the delay as to
  - existing legislation,
  - feeding the database in the Greek, Spanish and Portuguese languages,
- making the system more user-friendly and accessible to the public.

The necessary financial means should be made available.

*Annex 4 to Part A***Declaration on promoting economic recovery in Europe**

1.30. The completion of the European single market at the end of this year, the ratification of the Maastricht Treaty, agreement on the future financing of the Community and an early successful GATT settlement are of crucial importance for strengthening the European economy and would give a substantial boost to confidence.

The objectives of Member States' economic policies should remain as set out in the Maastricht Treaty: an open market economy with free competition, sustainable growth respecting the environment, stable prices with sound public finances and monetary conditions, and a sustainable balance of payments. These objectives will continue to determine the economic policies of Member States. They remain determined to fulfil the convergence criteria established in the Maastricht Treaty and to comply fully with the convergence programmes submitted to the

<sup>1</sup> A clear distinction must be made between:

unofficial consolidation, which consists in editorial assembling, outside any legislative procedure, of the scattered parts of legislation on a specific issue, which has no legal effect and which leaves all such parts in force (see, for instance, the consolidated text of the Financial Regulation, OJ C 80, 25.3.1991, p. 1);

official codification, which is achieved through the adoption of a formal legislative Community act through the relevant procedures, while repealing all pre-existing texts (see, for instance, the Council Regulation on the common organization on the market in fishery products, OJ L 354, 23.12.1991 p. 1), must be pursued in parallel.

<sup>2</sup> The Celex system (automated documentation on Community law) was set up in 1970 as an inter-institutional computerized documentation system and was made available to the public in 1981; it contains the entire body of EC law. On 13 November 1991, the Council adopted a resolution on the reorganization of the operating structures of Celex with a view to enhancing its effectiveness (OJ C 308, 28.11.91 p. 2).

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**IV.**

**Council Resolution  
on the quality of drafting  
of Community legislation  
(8 June 1993)**

OJ No C 166, 17 June 1993

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## I

*(Information)*

## COUNCIL

## COUNCIL RESOLUTION

of 8 June 1993

on the quality of drafting of Community legislation

(93/C 166/01)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community,

Having regard to the conclusions of the Presidency of the European Council meeting in Edinburgh on 11 and 12 December 1992 to the effect that practical steps should be taken to make Community legislation clearer and simpler,

Whereas guidelines should be adopted containing criteria against which the quality of drafting of Community legislation would have to be checked;

Whereas although such guidelines would be neither binding nor exhaustive they would aim to make Community legislation as clear, simple, concise and understandable as possible;

Whereas these guidelines are intended to serve as a reference for all bodies involved in the process of drawing up acts for the Council, not only in the Council itself but also in the Permanent Representatives Committee and particularly in the working parties; whereas the Council Legal Service is asked to use these guidelines to formulate drafting suggestions for the attention of the Council and its subsidiary bodies,

HAS ADOPTED THIS RESOLUTION:

The general objective of making Community legislation more accessible should be pursued, not only by making systematic use of consolidation but also by implementing the following guidelines as criteria against which Council texts should be checked as they are drafted:

1. the wording of the act should be clear, simple, concise and unambiguous; unnecessary abbreviations, 'Community jargon' and excessively long sentences should be avoided;
2. imprecise references to other texts should be avoided as should too many cross-references which make the text difficult to understand;
3. the various provisions of the acts should be consistent with each other; the same term should be used throughout to express a given concept;
4. the rights and obligations of those to whom the act is to apply should be clearly defined;
5. the act should be laid out according to the standard structure (chapters, sections, articles, paragraphs);
6. the preamble should justify the enacting provisions in simple terms;
7. provisions without legislative character should be avoided (wishes, political statements);
8. inconsistency with existing legislation should be avoided as should pointless repetition of existing provisions. Any amendment, extension or repeal of an act should be clearly set out;
9. an act amending an earlier act should not contain autonomous substantive provisions but only provisions to be directly incorporated into the act to be amended;
10. the date of entry into force of the act and any transitional provisions which might be necessary should be clearly stated.

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V.

**Conclusions of the  
Copenhagen European Council  
on access to information  
(20 June 1993)**

Copenhagen European Council, 21 and 22 June 1993, Presidency conclusions

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## **11. FORMER YUGOSLAVIA**

The European Council adopted the declaration on Bosnia-Herzegovina set out in Annex III.

## **12. RELATIONS WITH THE MAGHREB COUNTRIES**

The European Council recalled its determination to see the relationship with the Maghreb countries placed at a level of importance and intensity which corresponds to the close links which have been formed by geography and history. This should be done within the framework of an upgraded partnership between the Union and the individual Maghreb countries.

The European Council invited the Council to approve rapidly the draft directives presently being examined for a partnership agreement with Morocco.

It took note with satisfaction of the Commission's intention to submit rapidly draft directives for the negotiations of a similar agreement with Tunisia.

## **13. CONCLUSIONS REACHED BY FOREIGN MINISTERS**

The European Council took note of the conclusions reached by Foreign Ministers on the issues set out in Annex IV.

## **14. COMMON FOREIGN AND SECURITY POLICY – PREPARATORY WORK ON SECURITY**

The European Council noted the preparatory work already done by Foreign Ministers on security in connection with the mandate from the Edinburgh European Council and invited them to continue their work with a view to defining the necessary basic elements for a policy of the Union by the date of entry into force of the Treaty.

## **15. A COMMUNITY CLOSE TO ITS CITIZENS**

The European Council invited all institutions to ensure that the principles of subsidiarity and openness are firmly anchored in all spheres of Community activity and fully respected in the day-to-day operations of the institutions.

As regards the principle of subsidiarity, the European Council noted with satisfaction that the Commission is now submitting proposals only when it considers that they fulfil the subsidiarity criteria, and welcomed in general the substantial reduction in the volume of Community legislation foreseen in the Commission's legislative programme for 1993 compared to earlier years. The wider consultation by the Commission before submitting important new proposals and, in particular, the use of "green papers" relating to important new activities as well as a cost and benefit analysis of new proposals are also highly promising. It looked forward to the completion before the European Council in December of the Commission's review of existing and proposed legislation with regard to the subsidiarity principle.

The European Council noted with satisfaction that the Council and the Commission are now applying the principles, guidelines and procedures on subsidiarity decided at Edinburgh as an integral part of the decision making procedure. It hopes that the European Parliament will soon be able to join in this effort.

On openness, the European Council noted the first steps taken in response to the conclusions of the Edinburgh European Council regarding the opening of certain Council debates to the public, simplification and codification of Community legislation and information in general. It confirmed its commitment to continue the process of creating a more open and transparent Community.

In the area of public access to information, it invited the Council and the Commission to continue their

work based on the principle of the citizens having the fullest possible access to information. The aim should be to have all necessary measures in place by the end of 1993.

The European Council invited the European Parliament and the Council to settle the last outstanding issues with regard to the establishment of the Ombudsman in time for the entry into force of the Maastricht Treaty.

#### **16. FRAUD AFFECTING THE COMMUNITY**

The European Council underlined the importance of continuing to combat fraud and irregularities in connection with the Community budget, both in view of the sums involved and in order to promote confidence in the construction of Europe. It underlined the importance of fully implementing the provisions in the Maastricht Treaty according to which Member States are to take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests. It looked forward to the report on further developments in the Commission's anti-fraud strategy together with the related proposals. It invited the Commission to submit such proposals in March 1994 at the latest.

#### **17. RACISM AND XENOPHOBIA**

The European Council strongly condemned the recent attacks on immigrants and refugees in its Member States and expressed its deep sympathy with the innocent victims of such aggressions.

The European Council reiterated its strong resolve to fight by all available means intolerance and racism in all its forms. It stressed that such intolerance and racism is unacceptable in our present day societies.

The European Council confirmed the commitment to protect everybody, including immigrants and refugees,

against violations of fundamental rights and freedoms as embodied in constitutions and laws of Member States, the European Convention on Human Rights and other international conventions, including the United Nations Convention on the Elimination of all forms of Racial Discrimination.

The European Council recalled its previous declarations on racism and xenophobia and decided to intensify the efforts to identify and to root out the causes. It pledged that Member States will do their utmost to protect immigrants, refugees and others against expressions and manifestations of racism and intolerance.

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**VI.**

**Interinstitutional Agreement between the European Parliament,  
the Council and the Commission  
on democracy, transparency and subsidiarity  
(25 October 1993)**

Bulletin of the European Communities, No 10-1993

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## 2. Interinstitutional declaration on democracy, transparency and subsidiarity (25 October 1993)

2.2.1. At the Interinstitutional Conference in Luxembourg on 25 October the Council, Parliament and the Commission adopted the following declaration.

1. The European Parliament, the Council and the Commission, as institutions of the European Union, will, within the framework of the legislative procedure, respect in full the democratic principles on which the systems of government of the Member States are based; they reaffirm their attachment to the implementation of transparency by the institutions.

2. As soon as Parliament has adopted its resolution on the annual legislative programme proposed by the Commission, the Council will state its position on the programme in a declaration and undertake to implement as soon as possible the provisions to which it attaches priority, on the basis of formal Commission proposals and in compliance with the procedures laid down by the Treaties.

3. In order to increase the transparency of the Community, the institutions recall the measures which they have already taken in this direction:

The European Parliament, in amending its Rules of Procedure on 15 September 1993, has confirmed the public nature of meetings of its committees and of its plenary sittings.

The Council has agreed to take steps:

- to open some of its debates to the public;
- to publish records and explanations of its voting;
- to publish the common positions which it adopts under the procedures laid down in Articles 189b and 189c, and the statement of reasons accompanying them;
- to improve information for the press and the public on its work and decisions;
- to improve general information on its role and activities;
- to simplify and consolidate Community legislation in cooperation with the other institutions;
- to provide access to its archives.

The Commission has already taken or is in the process of taking the following measures:

- wider consultations before presenting proposals, in particular publication of Green or White Papers on the topics listed in the 1993 legislative programme;
- flagging in the legislative programme of upcoming proposals which would appear to be suitable for wide-ranging preliminary consultations;
- introduction of a notification procedure, consisting of the publication in the Official Journal of a brief summary of any measure planned by the Commission, with the setting of a deadline by which interested parties may submit their comments;
- publication of work programmes and legislative programmes in the Official Journal to publicize action planned by the Commission;
- finalization of the work programme by October with a view to enhancing openness;
- publication in the legislative programme of plans for the consolidation of Community legislation;
- provision of easier public access to documents held by the Commission with effect from 1 January 1994;
- improving knowledge of existing databases and their accessibility, including improving the existing relay network;
- publication each week in the Official Journal of lists of documents on general topics; wider public access to documents on specific topics;
- preparation of an interinstitutional yearbook giving details of each institution's organization chart;
- faster publication of Commission documents in all Community languages;
- adoption of a new information and communication policy occupying a larger place in Commission activities; enhanced coordination of information activities both inside and outside the Commission;

adoption of additional measures to facilitate the general public's understanding of Commission business, in particular by making available the necessary resources and equipment to provide a suitable response to requests from the media;

improvement in the treatment of telephone, mail and personal contacts between citizens and the Commission;

promotion of the establishment of self-regulation by special interest groups by asking them to draft a code of conduct and a directory;

creation by the Commission of a database on special interest groups as an instrument for use by the general public and by Community officials.

4. Interinstitutional Agreement on procedures for implementing the principle of subsidiarity (→ point 2.2.2).

5. Draft Decision of the European Parliament laying down the regulations and general conditions governing the performance of the ombudsman's duties.

6. Arrangements for the proceedings of the Conciliation Committee under Article 189b (→ point 2.2.3).

7. The three institutions will adopt all these texts in accordance with their internal procedures.

The agreements established at the Interinstitutional Conference on 25 October 1993 are aimed at implementing the Treaty on European Union and at strengthening the democratic, transparent nature of the European Union. They may be added to or amended by common agreement at the initiative of any of the three institutions.

### **Interinstitutional Agreement between the European Parliament, the Council and the Commission on procedures for implementing the principle of subsidiarity**

2.2.2. The European Parliament, the Council and the Commission,

Having regard to the Treaty on European Union signed in Maastricht on 7 February 1992, and in particular Article B thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 3b

thereof, as resulting from the Treaty on European Union,

Having regard to the conclusions of the European Council, meeting in Edinburgh, concerning subsidiarity, transparency and democracy,

Have agreed on the following measures:

#### **General provisions**

The purpose of the procedures for implementing the principle of subsidiarity shall be to govern the manner in which the powers assigned to the Community institutions by the Treaties, in order to enable them to achieve the objectives laid down by the Treaties, are exercised.

Such procedures shall not call into question the *acquis communautaire*, the provisions of the Treaties concerning the powers conferred on the institutions or the institutional balance.

#### **Procedures**

In exercising its right of initiative, the Commission shall take into account the principle of subsidiarity and show that it has been observed. The European Parliament and the Council shall do likewise, in exercising the powers conferred on them by Articles 138b and 152 respectively of the Treaty establishing the European Community.

The explanatory memorandum for any Commission proposal shall include a justification of the proposal under the principle of subsidiarity.

Any amendment which may be made to the Commission's text, whether by the European Parliament or the Council, must, if it entails more extensive or intensive intervention by the Community, be accompanied by a justification under the principle of subsidiarity and Article 3b.

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**VII.**

**Council Decision  
of 6 December 1993  
adopting the Council's Rules of Procedure**

OJ No L 304, 10 December 1993

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 6 December 1993

adopting the Council's Rules of Procedure

(93/662/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 151 (3) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 30 (3) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 121 (3) thereof,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Rules of Procedure of the Council of 24 July 1979, as amended on 20 July 1987, shall be replaced by the following, which shall enter into force on 7 December 1993:

**'RULES OF PROCEDURE OF THE COUNCIL**

*Article 1*

1. The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission.

2. The President shall make known the dates which he envisages for meetings of the Council during his period of office as President, seven months before the beginning thereof.

3. In accordance with the Decision taken by common agreement between the Representatives of the Governments of the Member States on 12 December 1992 on the basis of the relevant Articles of the Treaties establishing the European Communities, the Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg.

In exceptional circumstances and for duly substantiated reasons, the Council, acting unanimously, may decide to hold a meeting elsewhere.

*Article 2*

1. The President shall draw up the provisional agenda for each meeting. The agenda shall be sent to the other members of the Council and to the Commission at least 14 days before the beginning of the meeting.

2. The provisional agenda shall contain the items in respect of which a request for inclusion on the agenda, together with any documents relating thereto, has been received by the General Secretariat from a member of the Council or from the Commission at least 16 days before the beginning of that meeting.

The provisional agenda shall also indicate the items on which the Presidency, a member of the Council or the Commission may request a vote.

3. Only items in respect of which the documents have been sent to the members of the Council and to the Commission at the latest by the date on which the provisional agenda is sent may be placed on that agenda.

4. The General Secretariat shall transmit to the members of the Council and to the Commission requests for the inclusion of items in the agenda, documents and indications concerning voting relating thereto in respect of which the time limits specified above were not respected.

5. The agenda shall be adopted by the Council at the beginning of each meeting. The inclusion in the agenda of an item other than those appearing on the provisional agenda shall require unanimity in the Council. Items entered in this way may be put to the vote.

6. The provisional agenda shall be divided into Part A and Part B. Items for which approval of the Council is possible without discussion shall be included in Part A, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes.

7. However, an "A" item shall be withdrawn from the agenda, unless the Council decides otherwise, if a position on an "A" item might lead to further discussion thereof or if a member of the Council or the Commission so requests.

#### *Article 3*

Subject to the provisions of Article 7 on the delegation of voting rights, a member of the Council who is prevented from attending a meeting may arrange to be represented.

#### *Article 4*

1. Meetings of the Council shall not be public except in the cases referred to in Article 6.

2. The Commission shall be invited to take part in meetings of the Council. The Council may, however, decide to deliberate without the presence of the Commission.

3. The members of the Council and of the Commission may be accompanied by officials who assist them. The number of such officials may be laid down by the Council.

The names and functions of such officials shall be notified in advance to the Secretary-General.

4. Admission to meetings of the Council shall be subject to the production of a pass.

#### *Article 5*

1. Without prejudice to Article 7 (5) and other applicable provisions, the deliberations of the Council shall be covered by the obligation of professional secrecy, except in so far as the Council decides otherwise.

Where the record of a vote in Council is made public in accordance with Article 7 (5), the explanations of vote made when the vote was taken shall also be made public at the request of the Council members concerned, with due regard for these Rules of Procedure, legal certainty and the interests of the Council.

2. The Council may authorize the production of a copy or an extract from its minutes for use in legal proceedings.

#### *Article 6*

1. The Council shall hold policy debates on the six-monthly work programme submitted by the Presidency and, if appropriate, on the Commission's annual work programme. These debates shall be the subject of public retransmission by audiovisual means.

2. The Council may decide unanimously and on a case-by-case basis that some of its other debates are to be the subject retransmission by audiovisual means, in particular where they concern an important issue affecting the interests of the Union or an important new legislative proposal. To that end, it shall be for the Presidency, any member of the Council, or the Commission to propose issues or specific subjects for such a debate.

#### *Article 7*

1. The Council shall vote on the initiative of its President.

The President shall, furthermore, be required to open a voting procedure on the initiative of a member of the Council or of the Commission, provided that a majority of the Council's members so decides.

2. The members of the Council shall vote in the order of the Member States laid down in Article 27 of the Treaty establishing the European Coal and Steel Community (ECSC), Article 146 of the Treaty establishing the European Community (EC) and Article 116 of the Treaty establishing the European Atomic Energy Community (EAEC), beginning with the member who, according to that order, follows the member holding the office of President.

3. Delegation of the right to vote may only be made to another member of the Council.

4. The presence of six members of the Council is required to enable the Council to vote.

5. The record of the votes shall be made public :

- when the Council is acting as legislator within the meaning of the term given in the Annex to these Rules of Procedure, unless the Council decides otherwise. This rule shall apply when the Council adopts a common position pursuant to Article 189b or 189c of the Treaty establishing the European Community,
- when they are cast by the members of the Council or their representatives on the Conciliation Committee set up by Article 189b of the Treaty establishing the European Community,
- when the Council acts pursuant to Titles V and VI of the Treaty on European Union by a unanimous Council decision taken at the request of one of its members,
- in other cases, by Council decision taken at the request of one of its members.

*Article 8*

1. Acts of the Council on an urgent matter may be adopted by a written vote where the Council or the Committee of Permanent Representatives of the Member States (Coreper) referred to in Article 30 of the ECSC Treaty, Article 151 of the EC Treaty and Article 121 of the EAEC Treaty, unanimously decides to use that procedure. In special circumstances, the President may also propose the use of that procedure ; in such a case, written votes may be used where all members of the Council agree to that procedure.

2. Furthermore, agreement by the Commission to the use of that procedure shall be required where the written vote is on a matter which the Commission has brought before the Council.

3. A summary of acts adopted by the written procedure shall be drawn up every month.

4. On the initiative of the Presidency, the Council may also act for the purpose of implementing the common foreign and security policy by means of the simplified written procedure (Coreu). In that case the proposal shall be deemed to be adopted at the end of the period laid down by the Presidency depending on the urgency of the matter, except where a member of the Council objects.

5. The General Secretariat shall establish that the written procedures have been completed.

*Article 9*

1. Minutes of each meeting shall be drawn up and, when approved, shall be signed by the President-in-Office at the time of such approval and by the Secretary-General.

The minutes shall as a general rule indicate in respect of each item on the agenda :

- the documents submitted to the Council,
- the decisions taken or the conclusions reached by the Council,
- the statements made by the Council and those whose entry has been requested by a member of the Council or the Commission.

2. The draft minutes shall be drawn up by the General Secretariat within 15 days and submitted to the Council for approval.

3. Prior to such approval any member of the Council, or the Commission, may request that more details be inserted in the minutes regarding any item on the agenda.

4. The texts referred to in Article 10 shall be annexed to the minutes.

*Article 10*

1. Except as otherwise decided unanimously by the Council on grounds of urgency, the Council shall deliberate and take decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages.

2. Any member of the Council may oppose discussion if the texts of any proposed amendments are not drawn up in such of the languages referred to in paragraph 1 as he may specify.

*Article 11*

The text of the acts adopted by the Council and that of the acts adopted jointly by the European Parliament and the Council shall be signed by the President-in-Office at the time of their adoption and by the Secretary-General. The Secretary-General may delegate his signature to Directors-General of the General Secretariat.

*Article 12*

Regulations adopted jointly by the European Parliament and the Council as well as Council regulations shall include in their title the word "Regulation", as followed by a serial number, by the date of their adoption and by an indication of their subject matter.

*Article 13*

Regulations adopted jointly by the European Parliament and the Council as well as Council regulations shall contain the following :

- (a) "The European Parliament and the Council of the European Union" or "The Council of the European Union" as appropriate ;

- (b) a reference to the provisions under which the Regulation is adopted, preceded by the words "Having regard to";
- (c) a citation containing a reference to proposals submitted and opinions obtained and to consultations held;
- (d) a statement of the reasons on which the Regulation is based, introduced by the word "Whereas";
- (e) the phrase "have adopted this Regulation" or the phrase "has adopted this Regulation", as appropriate, followed by the body of the Regulation.

#### Article 14

1. Regulations shall be divided into Articles, if appropriate grouped into chapters and sections.

2. The last Article of a Regulation shall fix the date of entry into force, where that date is before or after the 20th day following publication.

3. The last Article of a Regulation shall be followed by:

- "This Regulation shall be binding in its entirety and directly applicable in all Member States."
- "Done at ...", followed by the date on which the Regulation was adopted, and

— in the case of:

- (a) a Regulation adopted jointly by the European Parliament and the Council, the formula:

"For the European Parliament The President"	"For the Council The President",
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followed by the name of the President of the European Parliament and of the President-in-Office of the Council when the Regulation is adopted;

- (b) a Council Regulation, the following formula:

"For the Council  
The President",

followed by the name of the President-in-Office of the Council at the time when the Regulation is adopted.

#### Article 15

The acts referred to in Article 191 (1) of the EC Treaty and the acts of the Council referred to in Article 191 (2) thereof and in the first paragraph of Article 163 of the EAEC Treaty shall be published in the Official Journal by the Secretary-General. Common positions adopted by the Council in accordance with the procedures referred to in Articles 189b and 189c of the EC Treaty, and the

reasons underlying those common positions, shall be published under the same conditions.

#### Article 16

Directives and decisions adopted jointly by the European Parliament and the Council, and directives and decisions of the Council, shall include in their titles the word "Directive" or "Decision".

Recommendations made and opinions delivered by the Council shall include in their titles the word 'recommendation' or 'opinion'.

The provisions relating to Regulations set out in Articles 13 and 14 shall apply *mutatis mutandis*, subject to the relevant provisions of the Treaty, to directives and decisions.

#### Article 17

1. Common positions within the meaning of Article J.2 and joint action within the meaning of Article J.3 of the Treaty on European Union shall bear one of the following headings, as appropriate:

- "Common position defined by the Council on the basis of Article J.2 of the Treaty on European Union";
- "Joint action adopted by the Council on the basis of Article J.3 of the Treaty on European Union".

2. Joint positions, joint action and conventions within the meaning of Article K.3 (2) of the Treaty on European Union shall bear one of the following headings, as appropriate:

- "Joint position defined by the Council on the basis of Article K.3 of the Treaty on European Union",
- "Joint action adopted by the Council on the basis of Article K.3 of the Treaty on European Union",
- "Convention drawn up on the basis of Article K.3 of the Treaty on European Union".

#### Article 18

1. The Secretary-General shall notify Council directives other than those referred to in Article 191 (2) of the EC Treaty and Council decisions and recommendations to their addressees. He shall also notify the joint action adopted or the common positions or joint positions defined on the basis of Articles J.2, J.3 or K.3 of the Treaty on European Union. He may entrust to Directors-General of the General Secretariat the task of attending to such notification on his behalf.

2. The Secretary-General or a Director-General acting on his behalf shall send authentic copies of Council Directives other than those referred to in Article 191 (2) of the EC Treaty and Council decisions and recommendations to the Governments of the Member States and to the Commission.

3. The decision to publish in the Official Journal the common positions and joint positions defined and the joint action adopted on the basis of Articles J.2, J.3 and K.3 of the Treaty on European Union and the measures implementing joint action and any measures implementing the conventions referred to in paragraph 4 shall in each case be taken by the Council acting unanimously when the said instruments are adopted.

4. Conventions drawn up by the Council in accordance with Article K.3 (2) of the Treaty on European Union, shall be published in the Official Journal.

Reference shall be made in the Official Journal to the entry into force of such conventions.

5. The Council shall decide unanimously whether the following should be published in the Official Journal by the Secretary-General:

— directives other than those referred to in Article 191 (1) and (2) of the EC Treaty, Council decisions and recommendations,

— conventions signed between the Member States.

6. Where an agreement concluded between the Communities and one or more States or international organizations sets up a body vested with powers of decision, the Council shall decide, when such an agreement is concluded, whether decisions to be taken by that body should be published in the Official Journal.

#### *Article 19<sup>(1)</sup>*

1. The Permanent Representatives Committee (Coreper) shall prepare the work of the Council and shall carry out the tasks assigned to it by the Council. All items on the agenda for a Council meeting shall be examined in advance by Coreper unless the Council decides otherwise. Coreper shall endeavour to reach agreement at its level to be submitted to the Council for adoption. It shall ensure adequate presentation of the dossiers to the Council. In the event of an emergency, the Council, acting unanimously, may decide to settle the matter without prior examination.

2. Committees or working parties may be set up by, or with the approval of, Coreper with a view to carrying out certain preparatory work or studies defined in advance.

<sup>(1)</sup> These provisions are without prejudice to the role of the Monetary Committee as resulting from Article 109c of the EC Treaty and existing Council decisions relating to it.

3. Coreper shall be presided over, depending on the items on the agenda, by the Permanent Representative or the Deputy Permanent Representative of the Member State which holds the Presidency of the Council. Unless the Council decides otherwise, the various committees provided for in the Treaties shall also be presided over by a delegate of that Member State. The same shall apply to the committees and working parties referred to in paragraph 2, unless Coreper decides otherwise. For the preparation of meetings of Council compositions meeting once every six months and held during the first half of this period, the meetings of committees other than Coreper, and those of working parties held during the preceding six months may be chaired by a delegate of the Member State whose turn it is to chair the said Council meetings.

#### *Article 20<sup>(1)</sup>*

Notwithstanding the other provisions of these Rules of Procedure, the Presidency shall organize the meetings of the various committees and working parties so that their reports are available before the Coreper meetings at which they are to be examined.

#### *Article 21*

1. The Council shall be assisted by a General Secretariat under the direction of a Secretary-General. The Secretary-General shall be appointed by the Council acting unanimously.

2. The Council shall determine the organization of the General Secretariat.

Under its authority the Secretary-General shall take all the measures necessary to ensure the smooth running of the General Secretariat.

3. The Secretary-General shall submit to the Council the draft estimate of the expenditure of the Council in sufficient time to ensure that the time limits laid down by the financial provisions are met.

4. In accordance with the provisions of the Financial Regulation referred to in Article 78h of the ECSC Treaty, in Article 209 of the EC Treaty and in Article 183 of the EAEC Treaty, the Secretary-General shall administer the funds placed at the disposal of the Council.

#### *Article 22*

The detailed arrangements for public access to Council documents disclosure of which is without serious or prejudicial consequences shall be adopted by the Council.



*Article 23*

The rules on security shall be adopted by the Council.

*Article 24*

In the event of the Secretary-General of the Council being designated as depositary of an agreement concluded between the Community and one or more States or international organizations, of a convention concluded between Member States or of a convention drawn up pursuant to Article K.3 of the Treaty on European Union, the acts of ratification, acceptance or approval of those agreements or conventions shall be deposited at the address of the Council.

In such instances the Secretary-General shall perform all the duties of a depositary of a treaty and shall also ensure that the dates of entry into force of such agreements or conventions are published in the Official Journal.

*Article 25*

1. Subject to special procedures, the Council may be represented by the Presidency or by any other of its

members before the European Parliament or its committees. The Council may also be represented before those committees by its Secretary-General or by senior officials of the General Secretariat acting on instructions from the Presidency.

2. The Council may also present its views to the European Parliament by means of a written statement.

*Article 26*

Correspondence to the Council shall be sent to the President at the address of the Council.

Done at Brussels, 6 December 1993.

*For the Council*

*The President*

W. CLAES

**ANNEX**

The Council acts as legislator within the meaning of the first indent of Article 7 (5) when it adopts rules which are legally binding in or for the Member States whether by means of regulations, directives or decisions, on the basis of the relevant provisions of the Treaties, in particular on the basis of Article 43 of the Treaty establishing the European Community or in the framework of the procedures in Article 189b and Article 189c of that Treaty, with the exception of discussions leading to the adoption of internal measures, administrative or budgetary acts, acts concerning inter-institutional or international relations or non-binding acts such as conclusions, recommendations or resolutions. Votes shall not be made public in the case of discussions leading to indicative votes or the adoption of preparatory acts.

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**Statements for the Council minutes****(a) *Re Article 2 (1) and (2)***

'The President will endeavour to ensure that, in principle, the provisional agenda for each Council meeting devoted to implementation of the provisions of Title VI of the Treaty on European Union, and the documentation relating to the items on that agenda, are received by the members of the Council at least 21 days before the beginning of the meeting'.

**(b) *Re Article 2***

'The Council is aware that common foreign and security policy matters must be dealt with quickly and effectively ; taking into account existing practice, which the Council undertakes to continue to follow, the rules under Article 2 do not prevent that requirement being met'.

**(c) *Re Article 6 (1)***

'Policy debates on the six-monthly work programme submitted by the Presidency and, if appropriate, on the Commission's work programme will be held in the General Affairs Council and the Economic and Financial Affairs Council. It is for the Presidency to set the timetable'.

**(d) *Re Article 6 (2)***

'It is for Coreper to prepare any debates which might be the subject of public retransmission'.

**(e) *Re Article 8***

'The Council agrees to consider the desirability of introducing into the Rules of Procedure provision for the use of a simplified written procedure where the Council acts under Title VI of the Treaty on European Union'.

**(f) *Re Articles 13 and 16***

'The Council notes the undertaking given by the Commission in the Presidency conclusions of the Edinburgh European Council to justify in a recital in each of its proposals the relevance of the proposal with regard to the principle of subsidiarity'.

**(g) *Re Article 15***

'The reasons underlying common positions will be submitted to Coreper and the Council before being published'.

**(h) *Re Article 20***

'Working party reports and other documents serving as a basis for Coreper's proceedings should be sent to the Member States in time for them to be examined'.

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**VIII.**

**Code of Conduct  
concerning public access to documents,  
approved by the Council and the Commission  
on 6 December 1993**

OJ No L 340, 31 December 1993

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## II

*(Acts whose publication is not obligatory)*

## COUNCIL

CODE OF CONDUCT CONCERNING PUBLIC ACCESS TO COUNCIL AND  
COMMISSION DOCUMENTS (6 December 1993).

(93/730/EC)

## THE COUNCIL AND THE COMMISSION,

HAVING REGARD to the declaration on the right of access to information annexed to the final act of the Treaty on European Union, which emphasizes that transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration,

HAVING REGARD to the conclusions wherein the European Councils in Birmingham and Edinburgh agreed on a number of principles to promote a Community closer to its citizens,

HAVING REGARD to the conclusions of the European Council in Copenhagen, reaffirming the principle of giving citizens the greatest possible access to information and calling on the Council and the Commission to adopt at an early date the necessary measures for putting this principle into practice,

CONSIDERING it desirable to establish by common agreement the principles which will govern access to Commission and Council documents, it being understood that it is for each of them to implement these principles by means of specific regulations,

WHEREAS the said principles are without prejudice to the relevant provisions on access to files directly concerning persons with a specific interest in them;

WHEREAS these principles will have to be implemented in full compliance with the provisions concerning classified information;

WHEREAS this code of conduct is an additional element in their information and communication policy,

## HAVE AGREED AS FOLLOWS:

**General principle**

The public will have the widest possible access to documents held by the Commission and the Council.

'Document' means any written text, whatever its medium, which contains existing data and is held by the Council or the Commission.

have to contain information that will enable the document or documents concerned to be identified.

Where necessary, the institution concerned will ask the applicant for further details.

**Processing of initial applications**

An application for access to a document will have to be made in writing, in a sufficiently precise manner; it will

Where the document held by an institution was written by a natural or legal person, a Member State, another Community institution or body or any other national or international body, the application must be sent direct to the author.

In consultation with the applicants, the institution concerned will find a fair solution to comply with repeat applications and/or those which relate to very large documents.

The applicant will have access to documents either by consulting them on the spot or by having a copy sent at his own expense; the fee will not exceed a reasonable sum.

The institution concerned will be able to stipulate that a person to whom a document is released will not be allowed to reproduce or circulate the said document for commercial purposes through direct sale without its prior authorization.

Within one month the relevant departments of the institution concerned will inform the applicant either that his application has been approved or that they intend to advise the institution to reject it.

#### Processing of confirmatory applications

Where the relevant departments of the institution concerned intend to advise the institution to reject an application, they will inform the applicant thereof and tell him that he has one month to make a confirmatory application to the institution for that position to be reconsidered, failing which he will be deemed to have withdrawn his original application.

If a confirmatory application is submitted, and if the institution concerned decides to refuse to release the document, that decision, which must be made within a month of submission of the confirmatory application, will be notified in writing to the applicant as soon as possible. The grounds for the decision must be given, and the decision must indicate the means of redress that are available, i.e. judicial proceedings and complaints to the ombudsman under the conditions specified in,

respectively, Articles 173 and 138e of the Treaty establishing the European Community.

#### Exceptions

The institutions will refuse access to any document whose disclosure could undermine:

- the protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations),
- the protection of the individual and of privacy,
- the protection of commercial and industrial secrecy,
- the protection of the Community's financial interests,
- the protection of confidentiality as requested by the natural or legal persons that supplied the information or as required by the legislation of the Member State that supplied the information.

They may also refuse access in order to protect the institution's interest in the confidentiality of its proceedings.

#### Implementation

The Commission and the Council will severally take steps to implement these principles before 1 January 1994.

#### Review

The Council and the Commission agree that the code of conduct will, after two years of operation, be reviewed on the basis of reports drawn up by the Secretaries-General of the Council and the Commission.

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#### Council statement

This code of conduct and the decisions which the Council and the Commission will severally adopt on the basis thereof are intended to allow public access to Council and Commission documents.

They alter neither the existing practices nor the obligations of Member States' Governments toward their parliaments.

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**IX.**

**Council Decision  
on public access to Council  
documents (20 December 1993)**

OJ No L 340, 31 December 1993

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## COUNCIL DECISION

of 20 December 1993

on public access to Council documents

(93/731/EC)

## THE COUNCIL,

Having regard to the Treaty establishing the European Community, and in particular Article 151 (3) thereof,

Having regard to its Rules of Procedure, and in particular Article 22 thereof,

Whereas on 6 December 1993 the Council and the Commission approved a code of conduct concerning public access to Council and Commission documents, reaching common agreement on the principles which must govern such access;

Whereas provisions should be adopted for the implementation of those principles by the Council;

Whereas these provisions are applicable to any document held by the Council, whatever its medium, excluding documents written by a person, body or institution outside the Council;

Whereas the principle of allowing the public wide access to Council documents, as part of greater transparency in the Council's work, must however be subject to exceptions, particularly as regards protection of the public interest, the individual and privacy;

Whereas, in the interests of rationalization and efficiency, the Secretary-General of the Council should sign on behalf of the Council and on its authorization replies to applications for access to documents, except in cases where the Council is called upon to reply to a confirmatory application;

Whereas this Decision must apply with due regard for provisions governing the protection of classified information,

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The public shall have access to Council documents under the conditions laid down in this Decision.

2. 'Council document' means any written text, whatever its medium, containing existing data and held by the Council, subject to Article 2 (2).

*Article 2*

1. An application for access to a Council document shall be sent in writing to the Council<sup>(1)</sup>. It must be made in a sufficiently precise manner and must contain information enabling the document or documents requested to be identified. Where necessary, the applicant shall be asked for further details.

2. Where the requested document was written by a natural or legal person, a Member State, another Community institution or body, or any other national or international body, the application must not be sent to the Council, but direct to the author.

*Article 3*

1. The applicant shall have access to a Council document either by consulting it on the spot or by having a copy sent at his own expense. The fee shall be set by the Secretary-General.

2. The relevant departments of the General Secretariat shall endeavour to find a fair solution to deal with repeat applications and/or those which relate to very large documents.

3. Anyone given access to a Council document may not reproduce or circulate the document for commercial purposes through direct sale without prior authorization from the Secretary-General.

*Article 4*

1. Access to a Council document shall not be granted where its disclosure could undermine:

- the protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations),
- the protection of the individual and of privacy,
- the protection of commercial and industrial secrecy,
- the protection of the Community's financial interests,

<sup>(1)</sup> The Secretary-General of the Council of the European Union, 170 rue de la Loi, 1048 Brussels, Belgium.



— the protection of confidentiality as requested by the natural or legal person who supplied any of the information contained in the document or as required by the legislation of the Member State which supplied any of that information.

2. Access to a Council document may be refused in order to protect the confidentiality of the Council's proceedings.

#### *Article 5*

The Secretary-General shall reply on behalf of the Council to applications for access to Council documents, except in the cases referred to in Article 7 (3), in which the reply shall come from the Council.

#### *Article 6*

Any application for access to a Council document shall be examined by the relevant departments of the General Secretariat, which shall suggest what action is to be taken on it.

#### *Article 7*

1. The applicant shall be informed in writing within a month by the relevant departments of the General Secretariat either that his application has been approved or that the intention is to reject it. In the latter case, the applicant shall also be informed of the reasons for this intention and that he has one month to make a confirmatory application for that position to be reconsidered, failing which he will be deemed to have withdrawn his original application.

2. Failure to reply to an application within a month of submission shall be equivalent to a refusal, except where the applicant makes a confirmatory application, as referred to above, within the following month.

3. Any decision to reject a confirmatory application, which shall be taken within a month of submission of such application, shall state the grounds on which it is based. The applicant shall be notified of the decision in writing as soon as possible and at the same time informed of the content of Articles 138e and 173 of the Treaty establishing the European Community, relating respectively to the conditions for referral to the Ombudsman by natural persons and review by the Court of Justice of the legality of Council acts.

4. Failure to reply within a month of submission of the confirmatory application shall be equivalent to a refusal.

#### *Article 8*

This Decision shall apply with due regard for provisions governing the protection of classified information.

#### *Article 9*

This Decision shall be reviewed after two years of operation. In 1996 the Secretary-General shall submit a report on the implementation of this Decision in 1994 and 1995, in preparation for that review.

#### *Article 10*

This Decision shall take effect on 1 January 1994.

Done at Brussels, 20 December 1993.

*For the Council*  
*The President*  
W. CLAES

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**X.**

**Council conclusions  
on transparency  
approved on 29 May 1995**

7481/95 (Presse 152)

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## TRANSPARENCY OF COUNCIL PROCEEDINGS

The Council examined in detail the Danish Government's note and the suggestions by the Swedish authorities.

The Council reaffirms its determination to work towards greater transparency of its proceedings within the guidelines framed by the European Council, while maintaining the effectiveness of the decision-making process.

1. The outcome of votes on legislative acts is now made public as a matter of course. The Council has never used the possibility of an exception provided for in its Rules of Procedure, nor does it intend doing so in the future.
2. The Council will hold more frequent debates which are broadcast to the public ("open debates") on important matters affecting the interests of the Union or on major new legislative proposals. The Presidency proposes that such debates be held at the start of each half year. For June 1995 the Presidency will be proposing at least two debates. The Presidency proposals for the second half of the year will be announced in July.
3. The Council will ensure that the press and the public are regularly and fully briefed prior to each of its meetings. To that end the General Secretariat of the Council will circulate, where necessary in liaison with the Presidency, all the relevant background information relating to the texts under discussion.
4. The Council instructs Coreper to consider the conditions under which public access to minutes of Council meetings could be facilitated.

For this purpose, the Council instructs Coreper to look into the establishment of a procedure which would make it possible, when each set of minutes is adopted, to determine whether the information contained in them, as described in Article 9(1) of the Council's Rules of Procedure, can be made accessible to the public and under what conditions. It also instructs Coreper to continue examining the practice of statements in the minutes in order to work out how to make better use of such statements and thereby to facilitate public access to minutes. Coreper is to report back to the Council by 1 October 1995.

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**XI.**

**Council reply  
to Parliamentary Question  
by Jens-Peter BONDE  
on measures to promote transparency  
(20 July 1995)**

OJ No C 230, 4 September 1995

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## WRITTEN QUESTION E-399/95

by Jens-Peter Bonde (EDN)

to the Council

(16 February 1995)

(95/C 230/06)

*Subject:* Measures to promote transparency

Can the Council give an account of the measures it has taken with regard to transparency and interest groups, and the financial cost of implementing these measures?

## Joint answer

to Written Questions E-45/95 and E-399/95

(20 July 1995)

1. Since its meeting in Birmingham in October 1992 the European Council has reaffirmed its desire to make the Community more open and more transparent for its citizens, to ensure a well-informed public debate on its activities. The Edinburgh European Council in December 1993 entrusted the Council's Working Party on Information with the development of a coordinated information strategy amongst the institutions and the introduction of a procedure for the more rapid transmission of information. The Working Party has since begun detailed discussion of its role, notably through six-monthly seminars.

These seminars (the fourth of which is to be held in May 1995) serve a dual purpose. First, they extend the activity of the Working Party on Information by assembling all Community institutions and bodies. National information experts and information users may also be invited.

The second aspect of this extension of the Working Party's activities concerns contacts between the Community institutions on the one hand and the Member States on the other. It should be stressed in this regard that the Union's information policy does not replace that of the other Member States. The Working Party does not therefore have to make judgments on national experiences, but rather looks at how greater synergy can be achieved at Union level. There is also an audiovisual information magazine called 'Contact Magazine' produced jointly by the Commission and the Member States.

2. As regards the situation to date regarding the implementation of the Interinstitutional Declaration on democracy, transparency and subsidiarity, with particular reference to transparency, it will be recalled that:

- (i) as regards opening some of its debates to the public, the Council's Rules of Procedure (Decision 93/662/EEC<sup>(1)</sup>, as last amended by Decision 95/24/EC, Euratom, ECSC)<sup>(2)</sup> provide that policy

debates on the six-monthly work programme submitted by the Presidency and, if appropriate, on the Commission's annual work programme shall be the subject of public re-transmission by audiovisual means. Furthermore, the Council may decide unanimously and on a case-by-case basis that some of its other debates are to be the subject of public re-transmission by the same means, in particular where they concern an important issue affecting the interests of the Union or an important new legislative proposal. It is for the Presidency, any members of the Council or the Commission to propose issues or specific subjects for such debates. So far there have been twenty-one 'open' debates.

- (ii) the record of the votes is made public in accordance with Article 7 (5) of the Council's Rules of Procedure, viz.:

— when the Council is acting as legislator within the meaning of the term given in the Annex to the Council's Rules of Procedure<sup>(3)</sup>, unless the Council decides otherwise. This rule shall apply when the Council adopts a common position pursuant to Article 189b or 189c of the EC Treaty;

— when they are cast by the members of the Council or their representatives on the Conciliation Committee set up by Article 189b of the EC Treaty;

— when the Council acts pursuant to Titles V and VI of the Treaty on European Union by a unanimous decision taken at the request of one of its members;

— in other cases, by Council Decision taken by simple majority at the request of one of its members.

- (iii) As regards improving general information on its role and activities, the Council has kept up its effort to ensure that the visits department satisfies visitors' expectations. In 1994 there were 220 visits, with a total of 7 619 visitors.

- (iv) Furthermore, Article 15 of the Council's Rules of Procedure stipulates that common positions adopted by the Council in accordance with the procedures referred to in Articles 189b and 189c of the EC Treaty, and the reasons underlying those common positions, shall be published in the Official Journal.

- (v) The Council has a press department which provides the media with daily information on the Council's activities. Its basic task is to issue press releases announcing the agendas for Council meetings and summarizing the outcome of the various meetings and of the other events organized by the Council. Press releases are distributed by post (on request) and via the Commission and European Parliament data bases (Rapid and Ovide/Epistel).

The press department also provides journalists with information on the preparatory work for the Council via briefings and background notes.

- (vi) Each year the Council prepares a *review*, which has been divided into two parts since 1992. The first, which is synoptic, consists of a summary of activities, and its summary form facilitates dissemination to the public. The second, which is analytical, sets out exhaustively all the texts and fields which have formed the subject of a decision during the year in question.
- (vii) As regards public access to Council documents, the Council adopted Decision 93/731/EC<sup>(1)</sup> which reflects the provisions of the code of conduct<sup>(2)</sup> concerning public access to documents. This procedure guarantees applicants a maximum period for a reply from the Council, a reasoned examination of their applications and a right of appeal in the event of the preliminary reply being negative. This procedure was invoked 70 times in 1994 (See the Council report on the functioning of the Treaty on European Union).

At its meeting on 29 May 1995, the Council reaffirmed its determination to work towards greater transparency of its proceedings within the guidelines framed by the European Council, while maintaining the effectiveness of the decision-making process.

1. The outcome of votes on legislative acts will now be made public as a matter of course. The Council has never used the possibility of an exception provided for in its Rules of Procedure, nor does it intend doing so in the future.
2. The Council will hold more frequent debates broadcast to the public ('open debates') on important matters affecting the interests of the Union or on major new legislative proposals. The Presidency proposes that such debates be held at the start of each half year. For June 1995 the Presidency will be proposing at least two debates. The Presidency proposals for the second half of the year will be announced in July.
3. The Council will ensure that the press and the public are regularly and fully briefed prior to each of its meetings. To that end the General Secretariat of the Council will circulate, where necessary in liaison with the Presidency, all the relevant background information relating to the texts under discussion.
4. The Council instructs Coreper to consider the conditions under which public access to minutes of Council meetings could be facilitated.

For this purpose, the Council is instructing Coreper to look into the establishment of a procedure which would make it possible, when each set of minutes is adopted, to determine whether the information contained in them, as described in

Article 9 (1) of the Council's Rules of Procedure, can be made accessible to the public and under what conditions. It also instructs Coreper to continue examining the practice of statements in the minutes in order to work out how to make better use of such statements and thereby to facilitate public access to minutes. Coreper is to report back to the Council by 1 October 1995.

<sup>(1)</sup> OJ No L 304, 10. 12. 1993, p. 1.

<sup>(2)</sup> OJ No L 31, 10. 2. 1995.

<sup>(3)</sup> The said Annex provides that 'The Council acts as legislator within the meaning of the first indent of Article 7 (5) when it adopts rules which are legally binding in or for the Member States whether by means of Regulations, Directives or Decisions, on the basis of the relevant provisions of the Treaties, in particular on the basis of Article 43 of the Treaty establishing the European Community or in the framework of the procedures in Article 189b and Article 189c of that Treaty, with the exception of discussions leading to the adoption of internal measures, administrative or budgetary acts, acts concerning inter-institutional or international relations or non-binding acts such as conclusions, recommendations or resolutions. Votes shall not be made public in the case of discussions leading to indicative votes or the adoption of preparatory acts.'

<sup>(4)</sup> OJ No L 340, 31. 12. 1993, p. 43.

<sup>(5)</sup> OJ No L 340, 31. 12. 1993, p. 41.

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**XII.**

**Code of Conduct  
on public access to the minutes  
and statements in the minutes  
of the Council  
acting as legislator  
(2 October 1995)**

10204/95 (Presse 271)

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### **13. TRANSPARENCY OF COUNCIL PROCEEDINGS**

- **Code of Conduct on public access to the minutes and statements in the minutes of the Council acting as legislator, adopted by the Council:**

"This Code of Conduct concerns items in the Council minutes relating to the final adoption of legislative acts within the meaning assigned to that term in the Annex to the Council's Rules of Procedure and the statements thereon.

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(1) OJ No L 115, 22.5.1995, p. 1.

**A. Statements**

1. The Council agrees to use statements in the minutes sparingly, it being understood that this instrument must continue to contribute to the efficiency of the decision-making process.
2. To that end, the Council bodies will endeavour, wherever appropriate, to incorporate the content of projected statements in the legislative act itself (recital or enacting terms), or in the statement of reasons in the case of a common position within the meaning of Articles 189b and 189c of the EC Treaty.

Some statements by members of the Council could become explanations of vote as referred to in the second subparagraph of Article 5(1) of the Council's Rules of Procedure.

3. If the Council, the Commission and/or the members of the Council deem it advisable to make statements, those statements should observe the requirement of compatibility with the text of the act.
4. The Council is in favour of public access, in general, to statements which it enters in its minutes when adopting legislative acts. When adopting such acts, the Council will therefore decide, in principle, that these statements are not covered by the obligation of professional secrecy, save in cases where, at the request of one of its members, the Council establishes that it does not have the simple majority required by Article 5(1) of its Rules of Procedure to waive that obligation.

In the case of a statement by one or more members of the Council, the Council will seek the agreement of the author(s) of the statement before deciding to make it available to the public.

Where a member of the Council requests that one of his statements be made available to the public by the Council, the Council will endeavour to comply with that request, on the understanding that each member of the Council may make his own statements public, acting on his own responsibility.

**B. Minutes**

1. When adopting the minutes of its meetings, the Council will systematically examine the question of whether to make public the references to documents before the Council <sup>(2)</sup> and the decisions taken or conclusions reached by the Council which are contained in the minutes relating to the final adoption of its legislative acts. As regards statements in the minutes, the decision taken by the Council when adopting the legislation will determine whether they can be made available to the public, without prejudice to application of the Council Decision of 20 December 1993 on public access to Council documents.
2. The Council's aim in making this examination will be to reach decisions which ensure the widest possible public availability of its minutes, save in exceptional cases where one of the reasons referred to in Article 4(1) of the Council Decision of 20 December 1993 on public access to Council documents does not so permit.
3. Where minutes contain statements by one or more members of the Council, the Council will seek the agreement of the author(s) of the statement(s) before taking a decision.

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<sup>(2)</sup> The decision to make minutes public does not mean that the documents referred to therein will be available to the public.

4. The Council shall take decisions on whether to make its minutes public on the basis of suggestions made by Coreper acting on a report from the Antici Group or the Mertens Group, as appropriate.
  5. This Code of Conduct does not apply to items in minutes of Council meetings held prior to the date of its adoption."
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XIII.

**Decision of the Secretary-General of the Council  
relating to fees  
in the context of public access  
to Council documents  
(27 February 1996)**

OJ No C 74, 14 March 1996

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DECISION OF THE SECRETARY-GENERAL OF THE COUNCIL

of 27 February 1996

relating to fees in the context of public access to Council documents

(96/C 74/02)

THE SECRETARY-GENERAL OF THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Decision 93/731/EC of 20 December 1993 on public access to Council documents, and in particular Article 3 (1) thereof,

Whereas applicants may have access to a Council document either by consulting it on the spot or by having a copy sent at their expense;

Whereas a fee should be set for copies of documents requested in the context of public access to Council documents, in order to cover administrative costs,

HAS DECIDED AS FOLLOWS:

*Article 1*

In the context of the Council Decision of 20 December 1993 on public access to Council documents, a fee of ECU 10 plus ECU 0,036 per sheet of paper shall be charged by the General Secretariat of the Council for copies of printed documents exceeding 30 pages. Charges for information in other formats shall be set on a case-by-case basis but shall not exceed what is reasonable.

*Article 2*

This Decision shall take effect one month after its publication in the *Official Journal of the European Communities*. It shall apply only to requests for public access to Council documents received after that date.

Done at Brussels, 27 February 1996.

Jürgen TRUMPF

*Secretary-General*

*of the Council of the European Union*