

**European Parliament**

2019-2024



# COMPENDIUM OF THE MAIN LEGAL ACTS RELATED TO THE RULES OF PROCEDURE

September 2019

**EN**

*United in diversity*

**EN**



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**ACT CONCERNING THE ELECTION OF THE MEMBERS  
OF THE EUROPEAN PARLIAMENT BY DIRECT UNIVERSAL SUFFRAGE<sup>1</sup>**

*Article 1*

1. In each Member State, members of the European Parliament shall be elected on the basis of proportional representation, using the list system or the single transferable vote.
2. Member States may authorise voting based on a preferential list system in accordance with the procedure they adopt.
3. Elections shall be by direct universal suffrage and shall be free and secret.

*Article 2*

In accordance with its specific national situation, each Member State may establish constituencies for elections to the European Parliament or subdivide its electoral area in a different manner, without generally affecting the proportional nature of the voting system.

*Article 3*

Member States may set a minimum threshold for the allocation of seats. At national level this threshold may not exceed 5 per cent of votes cast.

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<sup>1</sup> N.B.: This document is a consolidation produced by the Legal Service of the European Parliament on the basis of the Act concerning the election of the representatives of the Assembly by direct universal suffrage (OJ L 278, 8.10.1976, p. 5), as amended by Decision 93/81/Euratom, ECSC, EEC amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ L 33, 9.2.1993, p. 15), and Council Decision 2002/772/EC, Euratom of 25 June 2002 and 23 September 2002 (OJ L 283, 21.10.2002, p. 1). It differs from the consolidated version produced by the Publications Office of the European Union (CONSLEG. 1976X1008-23/09/2002) on two points: it incorporates an indent to Article 6(1) '– member of the Committee of the Regions' resulting from Article 5 of the Treaty of Amsterdam (OJ C 340, 10.11.1997) and is renumbered in accordance with Article 2(1) of Council Decision 2002/772/EC, Euratom.

*Article 4*

Each Member State may set a ceiling for candidates' campaign expenses.

*Article 5*

1. The five-year term for which members of the European Parliament are elected shall begin at the opening of the first session following each election.

It may be extended or curtailed pursuant to the second subparagraph of Article 10 (2).

2. The term of office of each member shall begin and end at the same time as the period referred to in paragraph 1.

*Article 6*

1. Members of the European Parliament shall vote on an individual and personal basis. They shall not be bound by any instructions and shall not receive a binding mandate.

2. Members of the European Parliament shall enjoy the privileges and immunities applicable to them by virtue of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities.

*Article 7*

1. The office of member of the European Parliament shall be incompatible with that of:

- member of the government of a Member State,
- member of the Commission of the European Communities,
- Judge, Advocate-General or Registrar of the Court of Justice of the European Communities or of the Court of First Instance,

- member of the Board of Directors of the European Central Bank,
- member of the Court of Auditors of the European Communities,
- Ombudsman of the European Communities,
- member of the Economic and Social Committee of the European Community and of the European Atomic Energy Community,
- member of the Committee of the Regions,
- member of committees or other bodies set up pursuant to the Treaties establishing the European Community and the European Atomic Energy Community for the purposes of managing the Communities' funds or carrying out a permanent direct administrative task,
- member of the Board of Directors, Management Committee or staff of the European Investment Bank,
- active official or servant of the institutions of the European Communities or of the specialised bodies attached to them or of the European Central Bank.

2. From the European Parliament elections in 2004, the office of member of the European Parliament shall be incompatible with that of member of a national parliament.

By way of derogation from that rule and without prejudice to paragraph 3:

- members of the Irish National Parliament who are elected to the European Parliament at a subsequent poll may have a dual mandate until the next election to the Irish National Parliament, at which juncture the first subparagraph of this paragraph shall apply;
- members of the United Kingdom Parliament who are also members of the European Parliament during the five-year term preceding election to the European Parliament in 2004 may have a dual mandate until the 2009 European Parliament elections, when the first subparagraph of this paragraph shall apply.

3. In addition, each Member State may, in the circumstances provided for in Article 8, extend rules at national level relating to incompatibility.

4. Members of the European Parliament to whom paragraphs 1, 2 and 3 become applicable in the course of the five-year period referred to in Article 5 shall be replaced in accordance with Article 13.

#### *Article 8*

Subject to the provisions of this Act, the electoral procedure shall be governed in each Member State by its national provisions.

These national provisions, which may if appropriate take account of the specific situation in the Member States, shall not affect the essentially proportional nature of the voting system.

#### *Article 9*

No one may vote more than once in any election of members of the European Parliament.

#### *Article 10*

1. Elections to the European Parliament shall be held on the date and at the times fixed by each Member State; for all Member States this date shall fall within the same period starting on a Thursday morning and ending on the following Sunday.

2. Member States may not officially make public the results of their count until after the close of polling in the Member State whose electors are the last to vote within the period referred to in paragraph 1.

#### *Article 11*

1. The Council, acting unanimously after consulting the European Parliament, shall determine the electoral period for the first elections.

2. Subsequent elections shall take place in the corresponding period in the last year of the five-year period referred to in Article 5.

Should it prove impossible to hold the elections in the Community during that period, the Council acting unanimously shall, after consulting the European Parliament, determine, at least one year before the end of the five-year term referred to in Article 5, another electoral period which shall not be more than two months before or one month after the period fixed pursuant to the preceding subparagraph.

3. Without prejudice to Article 196 of the Treaty establishing the European Community and Article 109 of the Treaty establishing the European Atomic Energy Community, the European Parliament shall meet, without requiring to be convened, on the first Tuesday after expiry of an interval of one month from the end of the electoral period.

4. The powers of the European Parliament shall cease upon the opening of the first sitting of the new European Parliament.

#### *Article 12*

The European Parliament shall verify the credentials of members of the European Parliament. For this purpose it shall take note of the results declared officially by the Member States and shall rule on any disputes which may arise out of the provisions of this Act other than those arising out of the national provisions to which the Act refers.

#### *Article 13*

1. A seat shall fall vacant when the mandate of a member of the European Parliament ends as a result of resignation, death or withdrawal of the mandate.

2. Subject to the other provisions of this Act, each Member State shall lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office referred to in Article 5 for the remainder of that period.

3. Where the law of a Member State makes explicit provision for the withdrawal of the mandate of a member of the European Parliament, that mandate shall end pursuant to those legal provisions. The competent national authorities shall inform the European Parliament thereof.

4. Where a seat falls vacant as a result of resignation or death, the President of the European Parliament shall immediately inform the competent authorities of the Member State concerned thereof.

#### *Article 14*

Should it appear necessary to adopt measures to implement this Act, the Council, acting unanimously on a proposal from the European Parliament after consulting the Commission, shall adopt such measures after endeavouring to reach agreement with the European Parliament in a conciliation committee consisting of the Council and representatives of the European Parliament.

#### *Article 15*

This Act is drawn up in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, all the texts being equally authentic.

Annexes I and II shall form an integral part of this Act.

#### *Article 16*

The provisions of this Act shall enter into force on the first day of the month following that during which the last of the notifications referred to in the Decision is received.

Udfærdiget i Bruxelles, den tyvende september nitten hundrede og  
seksoghalvfjerds.

Geschehen zu Brüssel am zwanzigsten September neunzehnhundert-  
sechundsiebzig.

Done at Brussels on the twentieth day of September in the year one  
thousand nine hundred and seventy-six.

Fait à Bruxelles, le vingt septembre mil neuf cent soixante-seize.

Arna dhéanamh sa Bhruiséil, an fichiú lá de mhí Mhéan Fómhair, míle naoi gcéad seachtó a sé.

Fatto a Bruxelles, addì venti settembre millenovecentosettantasei.

Gedaan te Brussel, de twintigste september negentienhonderd zesenze-ventig.

#### ANNEX I

The United Kingdom will apply the provisions of this Act only in respect of the United Kingdom.

#### ANNEX II

#### Declaration on Article 14

As regards the procedure to be followed by the Conciliation Committee, it is agreed to have recourse to the provisions of paragraphs 5, 6 and 7 of the procedure laid down in the joint declaration of the European Parliament, the Council and the Commission of 4 March 1975<sup>2</sup>.

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<sup>2</sup> OJ C 89, 22. 4. 1975, p. 1.

PROTOCOL (No 7)  
ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community ("EAEC"), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN UNION

*Article 1*

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

*Article 2*

The archives of the Union shall be inviolable.

*Article 3*

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.



*Article 4*

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

## CHAPTER II

## COMMUNICATIONS AND LAISSEZ-PASSER

*Article 5*

(ex Article 6)

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

*Article 6*

(ex Article 7)

*Laissez-passer* in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

## CHAPTER III

## MEMBERS OF THE EUROPEAN PARLIAMENT

*Article 7*

(ex Article 8)

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

#### *Article 8*

(ex Article 9)

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

#### *Article 9*

(ex Article 10)

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

### CHAPTER IV

#### REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN UNION

#### *Article 10*

(ex Article 11)

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V  
OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN UNION

*Article 11*

(ex Article 12)

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

*Article 12*

(ex Article 13)

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

*Article 13*

(ex Article 14)

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

*Article 14*

(ex Article 15)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

*Article 15*

(ex Article 16)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI  
PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES  
ACCREDITED TO THE EUROPEAN UNION

*Article 16*

(ex Article 17)

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII  
GENERAL PROVISIONS

*Article 17*

(ex Article 18)

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

*Article 18*

(ex Article 19)

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

*Article 19*

(ex Article 20)

Articles 11 to 14 and Article 17 shall apply to the President of the European Council.

They shall also apply to Members of the Commission.

*Article 20*

(ex Article 21)

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

*Article 21*

(ex Article 22)

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

*Article 22*

(ex Article 23)

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

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## II

*(Acts whose publication is not obligatory)*

## EUROPEAN PARLIAMENT

## DECISION OF THE EUROPEAN PARLIAMENT

**of 28 September 2005**

**adopting the Statute for Members of the European Parliament**

(2005/684/EC, Euratom)

THE EUROPEAN PARLIAMENT,

Having regard to the Treaty establishing the European Community, and in particular Article 190(5) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 108(4) thereof,

Having regard to the opinion of the Commission <sup>(1)</sup>,

With the approval of the Council <sup>(2)</sup>,

Whereas:

- (1) Parliament consists of 'representatives of the peoples of the States brought together in the Community'. These representatives are, as is also affirmed in Article 190(1) of the EC Treaty, the 'representatives of the peoples of the States brought together in the Community'. The same term is used in Article 190(2) of the EC Treaty (the number of representatives elected in each Member State) and in Article 190(3) of the EC Treaty (representatives shall be elected for a term of five years). These provisions, whereby Members are the representatives of the peoples, justify the use in the Statute of the term 'Member'.
- (2) Parliament has the right to regulate its own business in its Rules of Procedure, in accordance with the first paragraph of Article 199 of the EC Treaty and in conformity with this Statute.
- (3) Article 1 of the Statute takes the concept of 'Member' and makes it clear that the Statute does not deal with Members' rights and obligations, but covers the rules and general conditions applicable to the exercise of their mandate.

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<sup>(1)</sup> Opinion of the Commission of 3 June 2003, confirmed by Vice-President Wallström in the course of the sitting of the European Parliament on 22 June 2005.

<sup>(2)</sup> Letter from the Council of 19 July 2005.

- (4) The freedom and independence of Members, which are enshrined in Article 2 and which are not mentioned in any provision of primary law, should receive statutory protection. Undertakings made by Members to relinquish their office at a given time, or declarations of their intent to relinquish office on an unspecified date, which political parties can make use of at their discretion, should be considered as incompatible with Members' freedom and independence and should therefore not be binding in law.
- (5) Article 3(1) reproduces in full the provisions of Article 6(1) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage.
- (6) The right of initiative referred to in Article 5 is the key right of every Member. Parliament's Rules of Procedure may not render that right nugatory.
- (7) The right to inspect files, provided for in Article 6, which is already enshrined in Parliament's Rules of Procedure, is an essential aspect of the exercise of a Member's mandate and should therefore be provided for by the Statute.
- (8) Article 7 is intended to ensure that, despite statements to the contrary, linguistic diversity will continue to be preserved. Any discrimination against any of the official languages should be ruled out. This principle should continue to apply after any enlargement of the European Union.
- (9) Pursuant to Articles 9 and 10, Members are to receive a salary for performing their duties. Regarding the amount of the salary, a group of experts convened by Parliament submitted a study in May 2000, pursuant to which a salary of 38,5 % of the basic salary of a judge at the Court of Justice of the European Communities is justified.
- (10) Since the salary and transitional allowance, as well as the old-age, invalidity and survivor's pensions, are funded from the general budget of the European Union, it is appropriate for them to be subject to tax for the benefit of the Communities.
- (11) On account of Members' specific circumstances, in particular the fact that they are under no obligation to reside in any of Parliament's places of work and their specific ties to the State in which they are elected, it is appropriate to provide for the possibility for Member States to apply the provisions of their national tax law to the salary and transitional allowance as well as to the old-age, invalidity and survivor's pensions.
- (12) Article 9(3) is necessary because parties often expect the benefits referred to in Article 9(1) and (2) to be used in part for their purposes. This form of party funding should be prohibited.
- (13) The transitional allowance provided for in Articles 9(2) and 13 is intended, in particular, to bridge the period between the end of a Member's term of office and his/her taking up a new post. When the former Member takes up another mandate or assumes a public office, this purpose ceases to be relevant.
- (14) In light of the developments in the Member States regarding old-age pensions, it seems appropriate for former Members to be entitled to an old-age pension as from their 63rd birthday. Article 14 does not affect the right of the Member States to take account of old-age pensions payable under national law when calculating Members' old-age pensions.
- (15) The arrangements for provision for survivors are essentially in line with current law in the European Community. The entitlement of a surviving spouse who has remarried is based on the modern idea that it relates to a personal benefit and is not intended merely as 'provision'. Such an entitlement is not ruled out even when a surviving spouse is 'provided for' by virtue of his or her own income or personal wealth.



- (16) Article 18 is necessary because when the Statute enters into force, Member States will cease to reimburse the costs that Members incur as a result of sickness or to pay part of medical insurance contributions. These benefits are often retained after a Member's term of office is over.
- (17) The provisions concerning the reimbursement of expenses must be in conformity with the principles set out by the Court of Justice of the European Communities in the 'Lord Bruce' judgment <sup>(3)</sup>. Parliament is thus allowed to effect such reimbursement by means of a flat-rate sum, in those cases in which it is appropriate, in order to reduce the administrative costs and burdens inherent in a system involving the verification of each individual item of expense. This therefore represents sound administration.
- (18) On 28 May 2003, Parliament's Bureau adopted a set of new rules governing the payment of expenses and allowances to Members on the basis of expenses actually incurred, which should enter into force at the same time as this Statute.
- (19) The Member States should ensure that the rules placing Members of the European Parliament, when exercising their mandate in their Member State, on the same footing as members of the national parliament are retained. It is not possible for this problem to be solved at European level, as numerous very disparate arrangements exist in the Member States. Without such rules, the exercise of the mandate of a Member of the European Parliament in the Member State where a Member was elected would be considerably hampered, if not impossible. Effective exercise of the mandate is also in the interests of the Member States.
- (20) Article 25(1) is required because the very disparate national provisions to which Members have so far been subject make it impossible to solve at European level all the problems associated with the transition from an old to a new European system. Giving Members a choice will make it impossible for Members' rights to be reduced or for them to suffer financial loss as a result of the transition. The rule contained in Article 25(2) is the consequence of the decision made pursuant to Article 25(1).
- (21) The diversity of national situations is addressed in Article 29, under which the Member States are allowed to adopt rules different from the provisions of this Statute as a transitional measure. That very diversity also justifies the possibility whereby Member States may retain parity of remuneration between Members of the European Parliament and members of national parliaments,

DECIDES:

#### TITLE I

### REGULATIONS AND GENERAL CONDITIONS GOVERNING THE PERFORMANCE OF THE DUTIES OF THE MEMBERS OF THE EUROPEAN PARLIAMENT

#### *Article 1*

This Statute lays down the regulations and general conditions governing the performance of the duties of Members of the European Parliament.

#### *Article 2*

1. Members shall be free and independent.

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<sup>(3)</sup> Judgment of the Court of 15 September 1981, Case 208/80, *Rt. Hon. Lord Bruce of Donington v Eric Gordon Aspden* [1981] ECR 2205.

2. Agreements concerning the resignation from office of a Member before or at the end of a parliamentary term shall be null and void.

*Article 3*

1. Members shall vote on an individual and personal basis. They shall not be bound by any instructions and shall not receive a binding mandate.

2. Agreements concerning the way in which the mandate is to be exercised shall be null and void.

*Article 4*

Documents and electronic records which a Member has received, drafted or sent shall not be treated as Parliament documents unless they have been tabled in accordance with the Rules of Procedure.

*Article 5*

1. Each Member shall be entitled to table proposals for Community acts in the context of Parliament's right of initiative.

2. Parliament shall lay down in its Rules of Procedure the conditions for the exercise of this right.

*Article 6*

1. Members shall be entitled to inspect any files held by Parliament.

2. Paragraph 1 shall not apply to personal files and accounts.

3. Paragraph 1 shall apply without prejudice to acts of the European Union and agreements by the Institutions concerning access to documents.

4. Parliament shall lay down the conditions for the exercise of this right.

*Article 7*

1. Parliament's documents shall be translated into all the official languages.

2. Speeches shall be interpreted simultaneously into all the other official languages.

3. Parliament shall lay down the conditions for the implementation of this Article.

*Article 8*

1. Members may form themselves into political groups.

2. Parliament shall lay down in its Rules of Procedure the conditions for the exercise of this right.

*Article 9*

1. Members shall be entitled to an appropriate salary to safeguard their independence.
2. At the end of their term of office, they shall be entitled to a transitional allowance and a pension.
3. Agreements on the use of the salary, the transitional end-of-service allowance and the pension for other than private purposes shall be null and void.
4. The surviving dependants of Members or former Members shall be entitled to a survivor's pension.

*Article 10*

The amount of the salary shall be 38,5 % of the basic salary of a judge at the Court of Justice of the European Communities.

*Article 11*

The salary received by a Member for the exercise of a mandate in another parliament shall be offset against the salary.

*Article 12*

1. The salary provided for in Article 9 shall be subject to tax for the benefit of the Communities on the same terms and conditions as those laid down, on the basis of Article 13 of the Protocol on the privileges and immunities of the Communities, for the officials and other servants of the European Communities.
2. The abatements for occupational and personal expenses and those of a family and social nature, provided for in Article 3(2) to (4) of Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities <sup>(4)</sup>, shall not be applicable.
3. Paragraph 1 shall be without prejudice to the Member States' power to make the salary subject to national tax law provisions, provided that any double taxation is avoided.
4. Member States shall have the right to take the salary into account when setting the rate of taxation applicable to other revenue.
5. This Article shall also apply to the transitional allowance as well as to the old-age, invalidity and survivor's pensions, which are paid pursuant to Articles 13, 14, 15 and 17.
6. Benefits under Articles 18, 19 and 20 and contributions to the Pension Fund under Article 27 shall not be subject to tax.

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<sup>(4)</sup> OJ L 56, 4.3.1968, p. 8. Regulation as last amended by Regulation (EC, Euratom) No 723/2004 (OJ L 124, 27.4.2004, p. 1).

*Article 13*

1. At the end of their term of office Members shall be entitled to a transitional allowance equivalent to the salary pursuant to Article 10.
2. This entitlement shall continue for one month per year in which their mandate has been exercised, but not for less than six months or more than 24 months.
3. In the event of a Member's assuming a mandate in another parliament or taking public office, the transitional allowance shall be paid until the mandate starts or the public office is taken up.
4. In the event of death, the transitional allowance shall be paid for the last time in the month in which the former Member died.

*Article 14*

1. Former Members shall be entitled to an old-age pension from the age of 63.
2. This pension shall be, for each full year's exercise of a mandate, 3,5 % of the salary pursuant to Article 10 and one twelfth thereof for each further full month, but not more than 70 % in total.
3. Entitlement to the old-age pension shall exist irrespective of any other pension.
4. Article 11 shall apply *mutatis mutandis*.

*Article 15*

1. Members who become incapacitated during their term of office shall be entitled to a pension.
2. Article 14(2) shall apply *mutatis mutandis*. However, the amount of the pension shall be at least 35 % of the salary pursuant to Article 10.
3. The entitlement shall take effect when the Member concerned stands down.
4. Parliament shall lay down the conditions for the exercise of this right.
5. Article 11 shall apply *mutatis mutandis*.

*Article 16*

Should a former Member be entitled simultaneously to the payment of the transitional allowance pursuant to Article 13 and the pension pursuant to Article 14 or Article 15, he or she shall decide which arrangement shall be applied.

*Article 17*

1. In the event of the death of a Member or of a former Member who at the time of his/her death was or would have been entitled in future to a pension pursuant to Article 14 or Article 15, the spouse and dependent children shall be entitled to a survivor's pension.

2. The total amount of the pension shall not exceed the pension to which the Member would have been entitled at the end of the parliamentary term or to which the former Member was or would have been entitled.
3. The surviving spouse shall receive 60 % of the amount referred to in paragraph 2, but in any case at least 30 % of the salary pursuant to Article 10. Such entitlement shall not be affected if the surviving spouse remarries. Such entitlement shall be forfeited if the specific circumstances of an individual case leave no reasonable doubt that the marriage was concluded solely for the purpose of securing a pension.
4. A dependent child shall receive 20 % of the amount referred to in paragraph 2.
5. Should it be necessary, the maximum amount of the pension to be paid shall be divided between the spouse and the children in the ratio of the percentages laid down in paragraphs 3 and 4.
6. The pension shall be paid from the first day of the month following the date of death.
7. Should the spouse die, the entitlement shall expire at the end of the month during which the death occurred.
8. A child's entitlement shall expire at the end of the month in which he/she reaches the age of 21. However, it shall continue for the duration of education or vocational training, but shall expire at the latest at the end of the month during which he/she reaches the age of 25. The entitlement shall continue if the child is unable to support himself/herself on account of sickness or infirmity.
9. Partners from relationships recognised in the Member States shall be treated as equivalent to spouses.
10. Parliament shall lay down the conditions for the exercise of this right.

#### *Article 18*

1. Members and former Members drawing a pension, and persons entitled to the survivor's pension, shall be entitled to reimbursement of two thirds of the costs that they incur as a result of sickness, pregnancy or the birth of a child.
2. Parliament shall lay down the conditions for the exercise of this right.

#### *Article 19*

1. Members shall be entitled to insurance cover for the risks connected with the exercise of their mandate.
2. Parliament shall lay down the conditions for the exercise of this right. Members shall pay one third of the resulting insurance premiums.

#### *Article 20*

1. Members shall be entitled to reimbursement of expenses incurred in the exercise of their mandate.
2. Parliament shall reimburse the actual expenses incurred by Members in travelling to and from the places of work and in connection with other duty travel.
3. Others expenses incurred by Members in the exercise of their mandate may be reimbursed by means of a flat-rate sum.

4. Parliament shall lay down the conditions for the exercise of this right.
5. Article 9(3) shall apply *mutatis mutandis*

#### Article 21

1. Members shall be entitled to assistance from personal staff whom they may freely choose.
2. Parliament shall meet the expenses actually incurred by Members in employing such personal staff.
3. Parliament shall lay down the conditions for the exercise of this right.

#### Article 22

1. Members shall be entitled to use Parliament's office facilities, telecommunications equipment and official vehicles.
2. Parliament shall lay down the conditions for the exercise of this right.

#### Article 23

1. All payments shall be made from the budget of the European Union.
2. The payments due pursuant to Articles 10, 13, 14, 15 and 17 shall be made monthly in euro or, at the option of the Member, in the currency of the Member State where he/she is domiciled. Parliament shall lay down the conditions under which the payments are to be made.

#### Article 24

Decisions concerning the implementation of this Statute shall come into force once they have been published in the *Official Journal of the European Union*

### TITLE II

#### TRANSITIONAL PROVISIONS

#### Article 25

1. Members who belonged to Parliament prior to the entry into force of this Statute and were re-elected may opt for the national system applicable hitherto in respect of the salary, transitional allowance and pensions for the entire duration of their membership of the European Parliament.
2. These payments shall be made from the budget of the Member State in question.

#### Article 26

1. Members who wish to continue with the national system applicable hitherto pursuant to Article 25 (1) shall notify the President of Parliament of this decision in writing within 30 days of the entry into force of this Statute.

2. The decision shall be final and irrevocable.
3. Should such notification not be made within the time-limit, the provisions of this Statute shall apply.

#### Article 27

1. The voluntary pension fund set up by Parliament shall be maintained after the entry into force of this Statute for Members or former Members who have already acquired rights or future entitlements in that fund.
2. Acquired rights and future entitlements shall be maintained in full. Parliament may lay down criteria and conditions governing the acquisition of new rights or entitlements.
3. Members who receive the salary pursuant to Article 10 may not acquire any new rights or future entitlements in the voluntary pension fund.
4. The fund shall not be open to Members who are first elected to Parliament after this Statute becomes applicable.
5. Articles 9(3) and 14(3) shall apply *mutatis mutandis*.

#### Article 28

1. Any pension entitlement that a Member has acquired in accordance with national arrangements at the time when this Statute is applied shall be retained in full.
2. If the length of the term of office served in the European Parliament or in a national parliament is not sufficient under national arrangements to give rise to any pension entitlement, the period concerned shall be taken into account in calculating the pension based on this Statute. Parliament may conclude agreements with the competent authorities of the Member States on the transfer of acquired entitlements.

#### Article 29

1. Each Member State may adopt, for the Members elected in it, rules different from the provisions of this Statute as regards the salary, transitional allowance and pensions for a transitional period which may not exceed the length of two European Parliament parliamentary terms.
2. Those rules shall place the Members on at least an equal footing with the members of their respective national parliament.
3. All payments shall be made from the budget of the Member State in question.
4. The entitlements of Members pursuant to Articles 18 to 22 shall not be affected by such rules.

TITLE III

**FINAL PROVISION**

*Article 30*

This Statute shall enter into force on the first day of the European Parliament parliamentary term beginning in 2009.

Done at Strasbourg, 28 September 2005.

*For the European Parliament  
The President*

J. BORRELL FONTELLES

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This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B** Framework Agreement on relations between the European Parliament and the European Commission

(OJ L 304, 20.11.2010, p. 47)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Agreement between the European Parliament and the European Commission	L 45	46	17.2.2018

**▼B****Framework Agreement on relations between the European Parliament and the European Commission****I. SCOPE**

1. To better reflect the new ‘special partnership’ between Parliament and the Commission, the two Institutions agree on the following measures to strengthen the political responsibility and legitimacy of the Commission, extend constructive dialogue, improve the flow of information between the two Institutions and improve cooperation on procedures and planning.

They also agree on specific provisions:

- on Commission meetings with national experts, as set out in Annex I,
- on the forwarding of confidential information to Parliament, as set out in Annex II,
- on the negotiation and conclusion of international agreements, as set out in Annex III, and
- on the timetable for the Commission Work Programme, as set out in Annex IV.

**II. POLITICAL RESPONSIBILITY**

2. After being nominated by the European Council, the President-designate of the Commission will submit to Parliament political guidelines for his/her term of office in order to enable an informed exchange of views to take place with Parliament before its election vote.

3. In conformity with Rule 106 of its Rules of Procedure, Parliament shall communicate with the President-elect of the Commission in good time before the opening of the procedures relating to giving its consent to the new Commission. Parliament shall take into account the remarks expressed by the President-elect.

The designated Members of the Commission shall ensure full disclosure of all relevant information, in conformity with the obligation of independence laid down in Article 245 TFEU.

The procedures shall be designed in such a way as to ensure that the entire Commission-designate is assessed in an open, fair and consistent manner.

**▼M1**

4. Each Member of the Commission shall take political responsibility for action in the field of which he/she is in charge, without prejudice to the principle of Commission collegiality.

The President of the Commission shall be fully responsible for identifying any conflict of interest which renders a Member of the Commission unable to perform his/her duties.

The President of the Commission shall likewise be responsible for any subsequent action taken in such circumstances and shall inform the President of Parliament thereof immediately and in writing.

The participation of Members of the Commission in electoral campaigns is governed by the Code of Conduct for the Members of the European Commission.

**▼ M1**

Members of the Commission may participate in electoral campaigns in elections to the Parliament, including as candidates. They may also be chosen by European political parties as lead candidate ('Spitzenkandidat') for the position of President of the Commission.

The President of the Commission shall inform Parliament in due time whether one or more Members of the Commission will stand as candidates in electoral campaigns for elections to the Parliament, as well as of the measures taken to ensure the respect of the principles of independence, integrity and discretion provided for by Article 245 TFEU and the Code of Conduct for the Members of the European Commission.

Any Member of the Commission standing as candidate or participating in an electoral campaign for elections to the Parliament will undertake to refrain from adopting a position, in the course of the campaign, that would not be in line with his/her duty of confidentiality, or that would infringe the principle of collegiality.

Members of the Commission standing as candidates or participating in electoral campaigns for elections to the Parliament may not use the Commission's human or material resources for activities linked to the electoral campaign.

**▼ B**

5. If Parliament asks the President of the Commission to withdraw confidence in an individual Member of the Commission, he/she will seriously consider whether to request that Member to resign, in accordance with Article 17(6) TEU. The President shall either require the resignation of that Member or explain his/her refusal to do so before Parliament in the following part-session.

6. Where it becomes necessary to arrange for the replacement of a Member of the Commission during his/her term of office pursuant to the second paragraph of Article 246 TFEU, the President of the Commission will seriously consider the result of Parliament's consultation before giving accord to the decision of the Council.

Parliament shall ensure that its procedures are conducted with the utmost dispatch, in order to enable the President of the Commission to seriously consider Parliament's opinion before the new Member is appointed.

Similarly, pursuant to the third paragraph of Article 246 TFEU, when the remainder of the Commission's term of office is short, the President of the Commission will seriously consider Parliament's position.

7. If the President of the Commission intends to reshuffle the allocation of responsibilities amongst the Members of the Commission during its term of office, pursuant to Article 248 TFEU, he/she shall inform Parliament in due time for the relevant parliamentary consultation with regard to those changes. The President's decision to reshuffle the portfolios can take effect immediately.

8. When the Commission comes forward with a revision of the Code of Conduct for Commissioners relating to conflict of interest or ethical behaviour, it will seek Parliament's opinion.

**▼B****III. CONSTRUCTIVE DIALOGUE AND FLOW OF INFORMATION****(i) General provisions**

9. The Commission guarantees that it will apply the basic principle of equal treatment for Parliament and the Council, especially as regards access to meetings and the provision of contributions or other information, in particular on legislative and budgetary matters.

10. Within its competences, the Commission shall take measures to better involve Parliament in such a way as to take Parliament's views into account as far as possible in the area of the Common Foreign and Security Policy.

11. A number of arrangements are made to implement the 'special partnership' between Parliament and the Commission, as follows:

- the President of the Commission will at Parliament's request meet the Conference of Presidents at least twice a year to discuss issues of common interest,
- the President of the Commission will have a regular dialogue with the President of Parliament on key horizontal issues and major legislative proposals. This dialogue should also include invitations to the President of Parliament to attend meetings of the College of Commissioners,
- the President of the Commission or the Vice-President responsible for interinstitutional relations is to be invited to attend meetings of the Conference of Presidents and the Conference of Committee Chairs when specific issues relating to plenary agenda-setting, inter-institutional relations between Parliament and the Commission and legislative and budgetary matters are to be discussed,
- meetings shall take place annually between the Conference of Presidents and the Conference of Committee Chairs and the College of Commissioners, to discuss relevant issues including the preparation and implementation of the Commission Work Programme,
- the Conference of Presidents and the Conference of Committee Chairs shall inform the Commission in due time of the results of their discussions having an interinstitutional dimension. Parliament shall also keep the Commission fully and regularly informed of the outcome of its meetings dealing with the preparation of the part-sessions, taking into account the Commission's views. This is without prejudice to point 45,
- to ensure a regular flow of relevant information between the two Institutions, the Secretaries-General of Parliament and of the Commission shall meet on a regular basis.

12. Each Member of the Commission shall make sure that there is a regular and direct flow of information between the Member of the Commission and the chair of the relevant parliamentary committee.

13. The Commission shall not make public any legislative proposal or any significant initiative or decision before notifying Parliament thereof in writing.

**▼B**

On the basis of the Commission Work Programme, the two Institutions shall identify in advance, by common agreement, key initiatives to be presented in plenary. In principle, the Commission will present these initiatives first in plenary and only afterwards to the public.

Similarly, they shall identify those proposals and initiatives for which information is to be provided before the Conference of Presidents or conveyed, in an appropriate manner, to the relevant parliamentary committee or its chair.

These decisions shall be taken within the framework of the regular dialogue between the two Institutions, as provided for in point 11, and shall be updated on a regular basis, taking due account of any political developments.

14. If an internal Commission document – of which Parliament has not been informed pursuant to this Framework Agreement – is circulated outside the Institutions, the President of Parliament may request that the document concerned be forwarded to Parliament without delay, in order to communicate it to any Member of Parliament who may request it.

15. The Commission will provide full information and documentation on its meetings with national experts within the framework of its work on the preparation and implementation of Union legislation, including soft law and delegated acts. If so requested by Parliament, the Commission may also invite Parliament's experts to attend those meetings.

The relevant provisions are laid down in Annex I.

16. Within 3 months after the adoption of a parliamentary resolution, the Commission shall provide information to Parliament in writing on action taken in response to specific requests addressed to it in Parliament's resolutions, including in cases where it has not been able to follow Parliament's views. That period may be shortened where a request is urgent. It may be extended by 1 month where a request calls for more exhaustive work and this is duly substantiated. Parliament will make sure that this information is widely distributed within the institution.

Parliament will endeavour to avoid asking oral or written questions concerning issues in respect of which the Commission has already informed Parliament of its position through a written follow-up communication.

The Commission shall commit itself to report on the concrete follow-up of any request to submit a proposal pursuant to Article 225 TFEU (legislative initiative report) within 3 months following adoption of the corresponding resolution in plenary. The Commission shall come forward with a legislative proposal at the latest after 1 year or shall include the proposal in its next year's Work Programme. If the Commission does not submit a proposal, it shall give Parliament detailed explanations of the reasons.

The Commission shall also commit itself to a close and early cooperation with Parliament on any legislative initiative requests emanating from citizens' initiatives.

**▼B**

As regards the discharge procedure, the specific provisions laid down in point 31 shall apply.

17. Where initiatives, recommendations or requests for legislative acts are made pursuant to Article 289(4) TFEU, the Commission shall inform Parliament, if so requested, of its position on those proposals before the relevant parliamentary committee.

18. The two Institutions agree to cooperate in the area of relations with national Parliaments.

Parliament and the Commission shall cooperate on the implementation of TFEU Protocol No 2 on the application of the principles of subsidiarity and proportionality. Such cooperation shall include arrangements related to any necessary translation of reasoned opinions presented by national Parliaments.

When the thresholds mentioned in Article 7 of TFEU Protocol No 2 are met, the Commission shall provide the translations of all the reasoned opinions presented by national Parliaments together with its position thereon.

19. The Commission shall inform Parliament of the list of its expert groups set up in order to assist the Commission in the exercise of its right of initiative. That list shall be updated on a regular basis and made public.

Within this framework, the Commission shall, in an appropriate manner, inform the competent parliamentary committee, at the specific and reasoned request of its chair, on the activities and composition of such groups.

20. The two Institutions shall hold, through the appropriate mechanisms, a constructive dialogue on questions concerning important administrative matters, notably on issues having direct implications for Parliament's own administration.

21. Parliament will seek the opinion of the Commission when it comes forward with a revision of its Rules of Procedures concerning relations with the Commission.

22. Where confidentiality is invoked as regards any of the information forwarded pursuant to this Framework Agreement, the provisions laid down in Annex II shall be applied.

**(ii) International agreements and enlargement**

23. Parliament shall be immediately and fully informed at all stages of the negotiation and conclusion of international agreements, including the definition of negotiating directives. The Commission shall act in a manner to give full effect to its obligations pursuant to Article 218 TFEU, while respecting each Institution's role in accordance with Article 13(2) TEU.

The Commission shall apply the arrangements set out in Annex III.

24. The information referred to in point 23 shall be provided to Parliament in sufficient time for it to be able to express its point of view if appropriate, and for the Commission to be able to take Parliament's views as far as possible into account. This information shall, as a general rule, be provided to Parliament through the responsible parliamentary committee and, where appropriate, at a plenary sitting. In duly justified cases, it shall be provided to more than one parliamentary committee.

**▼B**

Parliament and the Commission undertake to establish appropriate procedures and safeguards for the forwarding of confidential information from the Commission to Parliament, in accordance with the provisions of Annex II.

25. The two Institutions acknowledge that, due to their different institutional roles, the Commission is to represent the European Union in international negotiations, with the exception of those concerning the Common Foreign and Security Policy and other cases as provided for in the Treaties.

Where the Commission represents the Union in international conferences, it shall, at Parliament's request, facilitate the inclusion of a delegation of Members of the European Parliament as observers in Union delegations, so that it may be immediately and fully informed about the conference proceedings. The Commission undertakes, where applicable, to systematically inform the Parliament delegation about the outcome of negotiations.

Members of the European Parliament may not participate directly in these negotiations. Subject to the legal, technical and diplomatic possibilities, they may be granted observer status by the Commission. In the event of refusal, the Commission will inform Parliament of the reasons therefor.

In addition, the Commission shall facilitate the participation of Members of the European Parliament as observers in all relevant meetings under its responsibility before and after negotiation sessions.

26. Under the same conditions, the Commission shall keep Parliament systematically informed about, and facilitate access as observers for Members of the European Parliament forming part of Union delegations to, meetings of bodies set up by multilateral international agreements involving the Union, whenever such bodies are called upon to take decisions which require the consent of Parliament or the implementation of which may require the adoption of legal acts in accordance with the ordinary legislative procedure.

27. The Commission shall also give Parliament's delegation included in Union delegations to international conferences access to use all Union delegation facilities on these occasions, in line with the general principle of good cooperation between the institutions and taking into account the available logistics.

The President of Parliament shall send to the President of the Commission a proposal for the inclusion of a Parliament delegation in the Union delegation no later than 4 weeks before the start of the conference, specifying the head of the Parliament delegation and the number of Members of the European Parliament to be included. In duly justified cases, this deadline can exceptionally be shortened.

The number of Members of the European Parliament included in the Parliament delegation and of supporting staff shall be proportionate to the overall size of the Union delegation.

**▼B**

28. The Commission shall keep Parliament fully informed of the progress of accession negotiations and in particular on major aspects and developments, so as to enable it to express its views in good time through the appropriate parliamentary procedures.

29. When Parliament adopts a recommendation on matters referred to in point 28, pursuant to Rule 90(4) of its Rules of Procedure, and when, for important reasons, the Commission decides that it cannot support such a recommendation, it shall explain the reasons before Parliament, at a plenary sitting or at the next meeting of the relevant parliamentary committee.

**(iii) Budgetary implementation**

30. Before making, at donors' conferences, financial pledges which involve new financial undertakings and require the agreement of the budgetary authority, the Commission shall inform the budgetary authority and examine its remarks.

31. In connection with the annual discharge governed by Article 319 TFEU, the Commission shall forward all information necessary for supervising the implementation of the budget for the year in question, which the chair of the parliamentary committee responsible for the discharge procedure pursuant to Annex VII to Parliament's Rules of Procedure requests from it for that purpose.

If new aspects come to light concerning previous years for which discharge has already been given, the Commission shall forward all the necessary information on the matter with a view to arriving at a solution acceptable to both sides.

**(iv) Relationship with regulatory agencies**

32. Nominees for the post of Executive Director of regulatory agencies should come to parliamentary committee hearings.

In addition, in the context of the discussions of the interinstitutional Working Group on Agencies set up in March 2009, the Commission and Parliament will aim at a common approach on the role and position of decentralised agencies in the Union's institutional landscape, accompanied by common guidelines for the creation, structure and operation of those agencies, together with funding, budgetary, supervision and management issues.

**IV. COOPERATION AS REGARDS LEGISLATIVE PROCEDURES AND PLANNING****(i) Commission Work Programme and the European Union's programming**

33. The Commission shall initiate the Union's annual and multi-annual programming, with a view to achieving interinstitutional agreements.

34. Every year the Commission shall present its Work Programme.



**▼B**

35. The two Institutions shall cooperate in accordance with the timetable set out in Annex IV.

The Commission shall take into account the priorities expressed by Parliament.

The Commission shall provide sufficient detail as to what is envisaged under each point in its Work Programme.

36. The Commission shall explain when it cannot deliver individual proposals in its Work Programme for the year in question or when it departs from it. The Vice-President of the Commission responsible for interinstitutional relations undertakes to report to the Conference of Committee Chairs regularly, outlining the political implementation of the Commission Work Programme for the year in question.

**(ii) Procedures for the adoption of acts**

37. The Commission undertakes to carefully examine amendments to its legislative proposals adopted by Parliament, with a view to taking them into account in any amended proposal.

When delivering its opinion on Parliament's amendments pursuant to Article 294 TFEU, the Commission undertakes to take the utmost account of amendments adopted at second reading; should it decide, for important reasons and after consideration by the College, not to adopt or support such amendments, it shall explain its decision before Parliament, and in any event in its opinion on Parliament's amendments by virtue of point (c) of Article 294(7) TFEU.

38. Parliament undertakes, when dealing with an initiative submitted by at least a quarter of Member States, in conformity with Article 76 TFEU, not to adopt any report in the relevant committee before receiving the Commission's opinion on the initiative.

The Commission undertakes to issue its opinion on such an initiative no later than 10 weeks after it has been submitted.

39. The Commission shall provide a detailed explanation in due time before withdrawing any proposals on which Parliament has already expressed a position at first reading.

The Commission shall proceed with a review of all pending proposals at the beginning of the new Commission's term of office, in order to politically confirm or withdraw them, taking due account of the views expressed by Parliament.

40. For special legislative procedures on which Parliament is to be consulted, including other procedures such as that laid down in Article 148 TFEU, the Commission:

- (i) shall take measures to better involve Parliament in such a way as to take Parliament's views into account as far as possible, in particular to ensure that Parliament has the necessary time to consider the Commission's proposal;

**▼B**

- (ii) shall ensure that Council bodies are reminded in good time not to reach a political agreement on its proposals before Parliament has adopted its opinion. It shall ask for discussion to be concluded at ministerial level after a reasonable period has been given to the members of the Council to examine Parliament's opinion;
- (iii) shall ensure that the Council adheres to the rules developed by the Court of Justice of the European Union requiring Parliament to be reconsulted if the Council substantially amends a Commission proposal. The Commission shall inform Parliament of any reminder to the Council of the need for reconsultation;
- (iv) undertakes, if appropriate, to withdraw a legislative proposal that Parliament has rejected. If, for important reasons and after consideration by the College, the Commission decides to maintain its proposal, it shall explain the reasons for that decision in a statement before Parliament.

41. For its part, in order to improve legislative planning, Parliament undertakes:

- (i) to plan the legislative sections of its agendas, bringing them into line with the current Commission Work Programme and with the resolutions it has adopted on that programme, in particular with a view to the improved planning of the priority debates;
- (ii) to meet reasonable deadlines, in so far as is useful for the procedure, when adopting its position at first reading under the ordinary legislative procedure or its opinion under the consultation procedure;
- (iii) as far as possible to appoint rapporteurs on future proposals as soon as the Commission Work Programme is adopted;
- (iv) to consider requests for reconsultation as a matter of absolute priority provided that all the necessary information has been forwarded to it.

**(iii) Issues linked to better lawmaking**

42. The Commission shall ensure that its impact assessments are conducted under its responsibility by means of a transparent procedure which guarantees an independent assessment. Impact assessments shall be published in due time, taking into consideration a number of different scenarios, including a 'do nothing' option, and shall in principle be presented to the relevant parliamentary committee during the phase of the provision of information to national Parliaments under TFEU Protocols Nos 1 and 2.

43. In areas where Parliament is usually involved in the legislative process, the Commission shall use soft law, where appropriate and on a duly justified basis after having given Parliament the opportunity to express its views. The Commission shall provide a detailed explanation to Parliament on how its views have been taken into account when it adopts its proposal.

**▼B**

44. In order to ensure better monitoring of the transposition and application of Union law, the Commission and Parliament shall endeavour to include compulsory correlation tables and a binding time limit for transposition, which in directives should not normally exceed a period of 2 years.

In addition to specific reports and the annual report on the application of Union law, the Commission shall make available to Parliament summary information concerning all infringement procedures from the letter of formal notice, including, if so requested by Parliament, on a case-by-case basis and respecting the confidentiality rules, in particular those acknowledged by the Court of Justice of the European Union, on the issues to which the infringement procedure relates.

**V. THE COMMISSION'S PARTICIPATION IN PARLIAMENTARY PROCEEDINGS**

45. The Commission shall give priority to its presence, if requested, at the plenary sittings or meetings of other bodies of Parliament, as compared to other competing events or invitations.

In particular, the Commission shall ensure that, as a general rule, Members of the Commission are present at plenary sittings for agenda items falling under their responsibility, whenever Parliament so requests. This is applicable to the preliminary draft agendas approved by the Conference of Presidents during the previous part-session.

Parliament shall seek to ensure that, as a general rule, agenda items of the part-sessions falling under the responsibility of a Member of the Commission are grouped together.

46. At the request of Parliament, provision will be made for a regular Question Hour with the President of the Commission. This Question Hour will comprise two parts: the first with leaders of political groups or their representatives, conducted on an entirely spontaneous basis; the second devoted to a policy theme agreed upon in advance, at the latest on the Thursday before the relevant part-session, but without prepared questions.

Furthermore, a Question Hour with Members of the Commission, including the Vice-President for External Relations/High Representative of the Union for Foreign Affairs and Security Policy shall be introduced, following the model of the Question Hour with the President of the Commission, with the aim of reforming the existing Question Time. This Question Hour shall relate to the portfolio of the respective Members of the Commission.

47. Members of the Commission shall be heard at their request.

Without prejudice to Article 230 TFEU, the two Institutions shall agree on general rules relating to the allocation of speaking time between the Institutions.

The two Institutions agree that their indicative allocation of speaking time should be respected.

**▼B**

48. With a view to ensuring the presence of Members of the Commission, Parliament undertakes to do its best to maintain its final draft agendas.

Where Parliament amends its final draft agenda, or where it moves items within the agenda within a part-session, Parliament shall immediately inform the Commission. The Commission shall use its best endeavours to ensure the presence of the Member of the Commission responsible.

49. The Commission may propose the inclusion of items on the agenda not later than the meeting of the Conference of Presidents that decides on the final draft agenda of a part-session. Parliament shall take the fullest account of such proposals.

50. Parliamentary committees shall seek to maintain their draft agendas and agendas.

Whenever a parliamentary committee amends its draft agenda or its agenda, the Commission shall be immediately informed thereof. In particular, parliamentary committees shall endeavour to respect a reasonable deadline so as to allow for the presence of Members of the Commission at their meetings.

Where the presence of a Member of the Commission is not explicitly required at a parliamentary committee meeting, the Commission shall ensure that it is represented by a competent official at an appropriate level.

Parliamentary committees will endeavour to coordinate their work, including avoiding parallel meetings on the same issue, and will endeavour not to deviate from the draft agenda, so that the Commission can ensure an appropriate level of representation.

If the presence of a high-level official (Director-General or Director) has been requested at a committee meeting dealing with a Commission proposal, the representative of the Commission shall be allowed to intervene.

## VI. FINAL PROVISIONS

51. The Commission confirms its commitment to examine as soon as possible the legislative acts which were not adapted to the regulatory procedure with scrutiny before the entry into force of the Lisbon Treaty, in order to assess whether those instruments need to be adapted to the regime of delegated acts introduced by Article 290 TFEU.

As a final goal, a coherent system of delegated and implementing acts, fully consistent with the Treaty, should be achieved through a progressive assessment of the nature and contents of measures currently subject to the regulatory procedure with scrutiny, in order to adapt them in due course to the regime laid down by Article 290 TFEU.

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52. The provisions of this Framework Agreement complement the Interinstitutional Agreement on better lawmaking <sup>(1)</sup> without affecting it and do not prejudice any further revision thereof. Without prejudice to forthcoming negotiations between Parliament, the Commission and the Council, the two Institutions commit to agree on key changes in preparation of future negotiations on adaptation of the Interinstitutional Agreement on better lawmaking to the new provisions introduced by the Lisbon Treaty, taking into account current practices and this Framework Agreement.

They also agree on the need to reinforce the existing interinstitutional contact mechanism, at political and at technical level, in relation to better lawmaking, so as to ensure effective interinstitutional cooperation between Parliament, the Commission and the Council.

53. The Commission commits to initiate rapidly the Union's annual and multiannual programming with a view to achieving interinstitutional agreements, in accordance with Article 17 TEU.

The Commission Work Programme is the Commission's contribution to the Union's annual and multiannual programming. Following its adoption by the Commission, a triologue between Parliament, the Council and the Commission should take place with a view to reaching an agreement on the Union's programming.

In this context and as soon as Parliament, the Council and the Commission have reached a common understanding on the Union's programming, the two Institutions shall review the provisions of this Framework Agreement related to programming.

Parliament and the Commission call on the Council to engage as soon as possible in discussions on the Union's programming as provided for in Article 17 TEU.

54. The practical implementation of this Framework Agreement and its Annexes shall be assessed periodically by the two Institutions. A review shall be carried out by the end of 2011, in the light of practical experience.

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<sup>(1)</sup> OJ C 321, 31.12.2003, p. 1.

*ANNEX I***Commission meetings with national experts**

This Annex lays down the modalities for implementation of point 15 of the Framework Agreement.

**1. Scope**

The provisions of point 15 of the Framework Agreement concern the following meetings:

- (1) Commission meetings taking place within the framework of expert groups established by the Commission to which national authorities from all Member States are invited, where they concern the preparation and implementation of Union legislation, including soft law and delegated acts;
- (2) ad hoc Commission meetings to which national experts from all Member States are invited, where they concern the preparation and implementation of Union legislation, including soft law and delegated acts.

Meetings of comitology committees are excluded, without prejudice to existing and future specific arrangements concerning the provision to Parliament of information concerning the exercise of the Commission's implementing powers <sup>(1)</sup>.

**2. Information to be transmitted to Parliament**

The Commission commits to send Parliament the same documentation it sends to national authorities in relation to the abovementioned meetings. The Commission will transmit those documents, including agendas, to a functional Parliament mailbox at the same time as they are sent to the national experts.

**3. Invitation of Parliament's experts**

Upon being requested by Parliament, the Commission may decide to invite Parliament to send Parliament experts to attend Commission meetings with national experts as identified in point 1.

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<sup>(1)</sup> The information to be provided to Parliament on the work of comitology committees and Parliament's prerogatives in the operation of comitology procedures are clearly defined in other instruments: (1) Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers (OJ L 184, 17.7.1999, p. 23); (2) the interinstitutional agreement of 3 June 2008 between Parliament and the Commission on comitology procedures; and (3) instruments necessary for the implementation of Article 291 TFEU.

*ANNEX II***Forwarding of confidential information to Parliament****1. Scope**

- 1.1. This Annex shall govern the forwarding to Parliament and the handling of confidential information, as defined in point 1.2, from the Commission in connection with the exercise of Parliament's prerogatives and competences. The two Institutions shall act in accordance with their mutual duties of sincere cooperation, in a spirit of complete mutual trust and in the strictest conformity with the relevant Treaty provisions.
- 1.2. 'Information' shall mean any written or oral information, whatever the medium and whoever the author may be.
  - 1.2.1. 'Confidential information' shall mean 'EU classified information' (EUCI) and non-classified 'other confidential information'.
  - 1.2.2. 'EU classified information' (EUCI) shall mean any information and material, classified as 'TRÈS SECRET UE/EU TOP SECRET', 'SECRET UE', 'CONFIDENTIEL UE' or 'RESTREINT UE' or bearing equivalent national or international classification markings, an unauthorised disclosure of which could cause varying degrees of prejudice to Union interests, or to one or more Member States, whether such information originates within the Union or is received from Member States, third States or international organisations.
    - (a) TRÈS SECRET UE/EU TOP SECRET: this classification shall be applied only to information and material the unauthorised disclosure of which could cause exceptionally grave prejudice to the essential interests of the Union or of one or more of its Member States.
    - (b) SECRET UE: this classification shall be applied only to information and material the unauthorised disclosure of which could seriously harm the essential interests of the Union or of one or more of its Member States.
    - (c) CONFIDENTIEL UE: this classification shall be applied to information and material the unauthorised disclosure of which could harm the essential interests of the Union or of one or more of its Member States.
    - (d) RESTREINT UE: this classification shall be applied to information and material the unauthorised disclosure of which could be disadvantageous to the interests of the Union or of one or more of its Member States.
  - 1.2.3. 'Other confidential information' shall mean any other confidential information, including information covered by the obligation of professional secrecy, requested by Parliament and/or forwarded by the Commission.
- 1.3. The Commission shall ensure that Parliament is given access to confidential information, in accordance with the provisions of this Annex, whenever it receives from one of the parliamentary bodies or office-holders mentioned in point 1.4 a request relating to the forwarding of confidential information. Moreover, the Commission may forward any confidential information on its own initiative to Parliament in accordance with the provisions of this Annex.
- 1.4. In the context of this Annex, the following may request confidential information from the Commission:

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- the President of Parliament,
- the chairs of the parliamentary committees concerned,
- the Bureau and the Conference of Presidents, and
- the head of Parliament's delegation included in the Union delegation at an international conference.

- 1.5. Information on infringement procedures and procedures relating to competition, in so far as they are not covered by a final Commission decision or by a judgment of the Court of Justice of the European Union on the date when the request from one of the parliamentary bodies/office-holders mentioned in point 1.4 is received, and information relating to the protection of the Union's financial interests, shall be excluded from the scope of this Annex. This is without prejudice to point 44 of the Framework Agreement and to the budgetary control rights of Parliament.
- 1.6. These provisions shall apply without prejudice to Decision 95/167/EC, Euratom, ECSC of the European Parliament, of the Council and of the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry <sup>(1)</sup> and the relevant provisions of Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) <sup>(2)</sup>.

**2. General rules**

- 2.1. At the request of one of the parliamentary bodies/office-holders referred to in point 1.4, the Commission shall forward to that parliamentary body/office-holder with all due despatch any confidential information required for the exercise of Parliament's prerogatives and competences. In accordance with their respective powers and responsibilities, the two Institutions shall respect:

- fundamental human rights, including the right to a fair trial and the right to protection of privacy,
- provisions governing judicial and disciplinary procedures,
- protection of business secrecy and commercial relations,
- protection of the interests of the Union, in particular those relating to public safety, defence, international relations, monetary stability and financial interests.

In the event of a disagreement, the matter shall be referred to the Presidents of the two Institutions so that they may resolve the dispute.

Confidential information from a State, an institution or an international organisation shall be forwarded only with its consent.

- 2.2. EUCI shall be forwarded to, and handled and protected by, Parliament in compliance with the common minimum standards of security applied by other Union Institutions, in particular the Commission.

<sup>(1)</sup> OJ L 113, 19.5.1995, p. 1.

<sup>(2)</sup> OJ L 136, 31.5.1999, p. 20.



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When classifying information for which it is the originator, the Commission will ensure that it applies appropriate levels of classification in line with the international standards and definitions and its internal rules, whilst taking due account of the need for Parliament to be able to access classified documents for the effective exercise of its competences and prerogatives.

- 2.3. In the event of any doubt as to the confidential nature of an item of information or its appropriate level of classification, or where it is necessary to lay down the appropriate arrangements for it to be forwarded in accordance with one of the options set out in point 3.2, the two Institutions shall consult each other without delay and before transmission of the document. In these consultations, Parliament shall be represented by the chair of the parliamentary body concerned, accompanied, where necessary, by the rapporteur, or the office-holder who submitted the request. The Commission shall be represented by the Member of the Commission with responsibility for that area, after consultation of the Member of the Commission responsible for security matters. In the event of a disagreement, the matter shall be referred to the Presidents of the two Institutions so that they may resolve the dispute.
- 2.4. If, at the end of the procedure referred to in point 2.3, no agreement has been reached, the President of Parliament, in response to a reasoned request from the parliamentary body/office-holder who submitted the request, shall call on the Commission to forward, within the appropriate deadline duly indicated, the confidential information in question, selecting the arrangements from among the options laid down in point 3.2 of this Annex. Before the expiry of that deadline, the Commission shall inform Parliament in writing of its final position, in respect of which Parliament reserves the right, if appropriate, to exercise its right to seek redress.
- 2.5. Access to EUCI shall be granted in accordance with applicable rules for personal security clearance.
- 2.5.1. Access to information classified as ‘TRÈS SECRET UE /EU TOP SECRET’, ‘SECRET UE’ and ‘CONFIDENTIEL UE’ may only be granted to Parliament officials and those employees of Parliament working for political groups to whom it is strictly necessary, who have been designated in advance by the parliamentary body/office-holder as having a need to know and who have been given an appropriate security clearance.
- 2.5.2. In light of Parliament’s prerogatives and competences, those Members who have not been given a personal security clearance shall be granted access to ‘CONFIDENTIEL UE’ documents under practical arrangements defined by common accord, including signature of a solemn declaration that they will not disclose the contents of those documents to any third person.
- Access to ‘SECRET UE’ documents shall be granted to Members who have been given an appropriate personal security clearance.
- 2.5.3. Arrangements shall be made with the support of the Commission to ensure that the necessary contribution of national authorities within the framework of the clearance procedure can be obtained by Parliament as quickly as possible.

Details of the category or categories of persons who are to have access to the confidential information shall be communicated simultaneously with the request.

Prior to being granted access to such information each person shall be briefed on its confidentiality level and the resulting security obligations.

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In the context of the review of this Annex and future security arrangements, as referred to in points 4.1 and 4.2, the issue of security clearances will be re-examined.

**3. Arrangements for access to and the handling of confidential information**

- 3.1. Confidential information forwarded in accordance with the procedures set out in point 2.3 and, where appropriate, point 2.4 shall be made available, on the responsibility of the President or of a Member of the Commission, to the parliamentary body/office-holder who submitted the request, in accordance with the following conditions:

Parliament and the Commission will ensure the registration and the traceability of confidential information.

More specifically, EUCI classified as ‘CONFIDENTIEL UE’ and ‘SECRET UE’ shall be forwarded from the Commission’s Secretariat General central registry to the equivalent competent Parliament service who will be responsible for making it available under the agreed arrangements to the parliamentary body/office-holder who submitted the request.

The forwarding of EUCI classified as ‘TRÈS SECRET UE/EU TOP SECRET’ shall be subject to further arrangements, agreed between the Commission and the parliamentary body/office-holder who submitted the request, aimed at ensuring a level of protection commensurate with that classification.

- 3.2. Without prejudice to the provisions of points 2.2 and 2.4 and the future security arrangements referred to in point 4.1, access and the arrangements designed to preserve the confidentiality of the information shall be laid down by common accord before the information is forwarded. That accord between the Member of the Commission with responsibility for the policy area involved and the parliamentary body (represented by its chair)/office-holder who submitted the request, shall provide for the selection of one of the options set out in points 3.2.1 and 3.2.2 in order to ensure the appropriate level of confidentiality.

- 3.2.1. Regarding the addressees of confidential information, provision should be made for one of the following options:

- information intended for the President of Parliament alone, in instances justified on absolutely exceptional grounds,
- the Bureau and/or the Conference of Presidents,
- the chair and rapporteur of the relevant parliamentary committee,
- all members (full and substitute) of the relevant parliamentary committee,
- all Members of the European Parliament.

The confidential information in question may not be published or forwarded to any other addressee without the consent of the Commission.

- 3.2.2. Regarding the arrangements for the handling of confidential information, provision should be made for the following options:

- (a) examination of documents in a secure reading room if the information is classified as ‘CONFIDENTIEL UE’ and above;

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(b) holding the meeting in camera, attended only by the members of the Bureau, the members of the Conference of Presidents or full members and substitute members of the competent parliamentary committee as well as by Parliament officials and those Parliament employees working for political groups who have been designated in advance by the chair as having a need to know and whose presence is strictly necessary, provided they have been given the required level of security clearance, taking into account the following conditions:

- any documents may be numbered, distributed at the beginning of the meeting and collected again at the end. No notes of those documents and no photocopies thereof may be taken,
- the minutes of the meeting shall make no mention of the discussion of the item taken under the confidential procedure.

Before transmission, all personal data may be expunged from the documents.

Confidential information provided orally to recipients in Parliament shall be subject to the equivalent level of protection as that accorded to confidential information provided in written form. This may include a solemn declaration by recipients of that information not to divulge its contents to any third person.

3.2.3. When written information is to be examined in a secure reading room, Parliament shall ensure that the following arrangements are in place:

- a secure storage system for confidential information,
- a secure reading room without photocopying machines, telephones, fax facilities, scanners or any other technical equipment for the reproduction and transmission of documents etc.,
- security provisions governing access to the reading room, including the requirements of signature in an access register and a solemn declaration not to disseminate the confidential information examined.

3.2.4. The above does not preclude other equivalent arrangements agreed between the Institutions.

3.3. In the event of non-compliance with these arrangements, the provisions relating to sanctions of Members set out in Annex VIII to Parliament's Rules of Procedure and, in respect of Parliament officials and other employees, the applicable provisions of Article 86 of the Staff Regulations<sup>(1)</sup> or Article 49 of the Conditions of employment of other servants of the European Communities shall apply.

#### **4. Final provisions**

4.1. The Commission and Parliament shall take all the measures required for the implementation of the provisions of this Annex.

<sup>(1)</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of employment of other servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission.

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To that end, the competent services of the Commission and of Parliament shall closely coordinate the implementation of this Annex. This shall include the verification of traceability of confidential information and periodic joint monitoring of security arrangements and standards applied.

Parliament undertakes to adapt, where necessary, its internal provisions so as to implement the security rules for confidential information laid down in this Annex.

Parliament undertakes to adopt as soon as possible its future security arrangements and to verify those arrangements by common accord with the Commission, with a view to establishing equivalence of security standards. This will give effect to this Annex with regard to:

- technical security provisions and standards regarding the handling and storage of confidential information, including security measures in the field of physical, personnel, document and IT security,
- the establishment of a specially established oversight committee, composed of appropriately cleared Members for the handling of EUCI classified as ‘TRÈS SECRET UE/EU TOP SECRET’.

4.2. Parliament and the Commission will review this Annex and, where necessary, adapt it, no later than at the time of the review referred to in point 54 of the Framework Agreement, in light of developments concerning:

- future security arrangements involving Parliament and the Commission,
- other agreements or legal acts relevant for the forwarding of information between the Institutions.

*ANNEX III***Negotiation and conclusion of international agreements**

This Annex lays down detailed arrangements for the provision of information to Parliament concerning the negotiation and conclusion of international agreements as referred to in points 23, 24 and 25 of the Framework Agreement.

1. The Commission shall inform Parliament about its intention to propose the start of negotiations at the same time as it informs the Council.
2. In line with the provisions of point 24 of the Framework Agreement, when the Commission proposes draft negotiating directives with a view to their adoption by the Council, it shall at the same time present them to Parliament.
3. The Commission shall take due account of Parliament's comments throughout the negotiations.
4. In line with the provisions of point 23 of the Framework Agreement, the Commission shall keep Parliament regularly and promptly informed about the conduct of negotiations until the agreement is initialled, and explain whether and how Parliament's comments were incorporated in the texts under negotiation and if not why.
5. In the case of international agreements the conclusion of which requires Parliament's consent, the Commission shall provide to Parliament during the negotiation process all relevant information that it also provides to the Council (or to the special committee appointed by the Council). This shall include draft amendments to adopted negotiating directives, draft negotiating texts, agreed articles, the agreed date for initialling the agreement and the text of the agreement to be initialled. The Commission shall also transmit to Parliament, as it does to the Council (or to the special committee appointed by the Council), any relevant documents received from third parties, subject to the originator's consent. The Commission shall keep the responsible parliamentary committee informed about developments in the negotiations and, in particular, explain how Parliament's views have been taken into account.
6. In the case of international agreements the conclusion of which does not require Parliament's consent, the Commission shall ensure that Parliament is immediately and fully informed, by providing information covering at least the draft negotiating directives, the adopted negotiating directives, the subsequent conduct of negotiations and the conclusion of the negotiations.
7. In line with the provisions of point 24 of the Framework Agreement, the Commission shall give thorough information to Parliament in due time when an international agreement is initialled, and shall inform Parliament as early as possible when it intends to propose its provisional application to the Council and of the reasons therefor, unless reasons of urgency preclude it from doing so.
8. The Commission shall inform the Council and Parliament simultaneously and in due time of its intention to propose to the Council the suspension of an international agreement and of the reasons therefor.
9. For international agreements which would fall under the consent procedure provided for by the TFEU, the Commission shall also keep Parliament fully informed before approving modifications to an agreement which are authorised by the Council, by way of derogation, in accordance with Article 218(7) TFEU.

*ANNEX IV***Timetable for the Commission Work Programme**

The Commission Work Programme shall be accompanied by a list of legislative and non-legislative proposals for the following years. The Commission Work Programme covers the next year in question, and provides a detailed indication of the Commission's priorities for the subsequent years. The Commission Work Programme can thus be the basis for a structured dialogue with Parliament, with a view to seeking a common understanding.

The Commission Work Programme shall also include planned initiatives on soft law, withdrawals and simplification.

1. In the first semester of a given year, Members of the Commission shall undertake an ongoing regular dialogue with the corresponding parliamentary committees on the implementation of the Commission Work Programme for that year and on the preparation of the future Commission Work Programme. On the basis of that dialogue each parliamentary committee shall report on the outcome thereof to the Conference of Committee Chairs.
2. In parallel the Conference of Committee Chairs shall hold a regular exchange of views with the Vice-President of the Commission responsible for inter-institutional relations, in order to assess the state of implementation of the current Commission Work Programme, discuss the preparation of the future Commission Work Programme and take stock of the results of the ongoing bilateral dialogue between the parliamentary committees concerned and relevant Members of the Commission.
3. In June, the Conference of Committees Chairs shall submit a summary report to the Conference of Presidents, which should include results of the screening of the implementation of the Commission Work Programme as well as Parliament's priorities for the forthcoming Commission Work Programme, and Parliament shall inform the Commission thereof.
4. On the basis of that summary report, Parliament shall adopt a resolution at the July part-session, outlining its position and including in particular requests based on legislative initiative reports.
5. Each year in the first part-session of September, a State of the Union debate will be held in which the President of the Commission shall deliver an address, taking stock of the current year and looking ahead to priorities for the following years. To that end, the President of the Commission will in parallel set out in writing to Parliament the main elements guiding the preparation of the Commission Work Programme for the following year.
6. From the start of September, the competent parliamentary committees and the relevant Members of the Commission may meet for a more detailed exchange of views on future priorities in each policy area. These meetings shall be rounded off by a meeting between the Conference of Committee Chairs and the College of Commissioners and by a meeting between the Conference of Presidents and the President of the Commission, as appropriate.
7. In October, the Commission shall adopt its Work Programme for the following year. Subsequently, the President of the Commission shall present that Work Programme to Parliament at an appropriate level.
8. Parliament may hold a debate and adopt a resolution at the December part-session.

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9. This timetable shall be applied to each regular programming cycle, except for Parliament election years coinciding with the end of the Commission's term of office.
10. This timetable shall not prejudice any future agreement on interinstitutional programming.

## II

*(Non-legislative acts)*

## INTERINSTITUTIONAL AGREEMENTS

**INTERINSTITUTIONAL AGREEMENT BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL  
OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION ON BETTER LAW-MAKING****INTERINSTITUTIONAL AGREEMENT****of 13 April 2016****on Better Law-Making**

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 295 thereof,

Whereas:

- (1) The European Parliament, the Council and the Commission ("the three Institutions") are committed to sincere and transparent cooperation throughout the entire legislative cycle. In this context, they recall the equality of both co-legislators as enshrined in the Treaties.
- (2) The three Institutions recognise their joint responsibility in delivering high-quality Union legislation and in ensuring that such legislation focuses on areas where it has the greatest added value for European citizens, is as efficient and effective as possible in delivering the common policy objectives of the Union, is as simple and as clear as possible, avoids overregulation and administrative burdens for citizens, administrations and businesses, especially small and medium-sized enterprises ("SMEs"), and is designed with a view to facilitating its transposition and practical application and to strengthening the competitiveness and sustainability of the Union economy.
- (3) The three Institutions recall the Union obligation to legislate only where and to the extent necessary, in accordance with Article 5 of the Treaty on European Union on the principles of subsidiarity and proportionality.
- (4) The three Institutions reiterate the role and responsibility of national Parliaments as laid down in the Treaties, in Protocol No 1 on the role of National Parliaments in the European Union annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community and in Protocol No 2 on the application of the principles of subsidiarity and proportionality, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.
- (5) The three Institutions agree that the analysis of the potential "European added value" of any proposed Union action, as well as an assessment of the "cost of non-Europe" in the absence of action at Union level, should be fully taken into account when setting the legislative agenda.
- (6) The three Institutions consider that public and stakeholder consultation, ex-post evaluation of existing legislation and impact assessments of new initiatives will help achieve the objective of Better Law-Making.
- (7) With a view to facilitating the negotiations in the framework of the ordinary legislative procedure and improving the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union, this Agreement establishes the principles in accordance with which the Commission will gather all necessary expertise prior to adopting delegated acts.



- (8) The three Institutions affirm that the goals of simplifying Union legislation and reducing the regulatory burden should be pursued without prejudice to the achievement of the policy objectives of the Union, as specified in the Treaties, or to safeguarding the integrity of the internal market.
- (9) This Agreement complements the following agreements and declarations on Better Law-Making, to which the three Institutions remain fully committed:
- Interinstitutional Agreement of 20 December 1994 –Accelerated working method for official codification of legislative texts <sup>(1)</sup>;
  - Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation <sup>(2)</sup>;
  - Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts <sup>(3)</sup>;
  - Joint Declaration of 13 June 2007 on practical arrangements for the codecision procedure <sup>(4)</sup>;
  - Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents <sup>(5)</sup>,

HAVE AGREED AS FOLLOWS:

#### I. COMMON COMMITMENTS AND OBJECTIVES

1. The three Institutions hereby agree to pursue Better Law-Making by means of a series of initiatives and procedures, as set out in this Agreement.
2. In exercising their powers and in compliance with the procedures laid down in the Treaties, and recalling the importance which they attach to the Community method, the three Institutions agree to observe general principles of Union law, such as democratic legitimacy, subsidiarity and proportionality, and legal certainty. They further agree to promote simplicity, clarity and consistency in the drafting of Union legislation and to promote the utmost transparency of the legislative process.
3. The three Institutions agree that Union legislation should be comprehensible and clear, allow citizens, administrations and businesses to easily understand their rights and obligations, include appropriate reporting, monitoring and evaluation requirements, avoid overregulation and administrative burdens, and be practical to implement.

#### II. PROGRAMMING

4. The three Institutions agree to reinforce the Union's annual and multiannual programming in line with Article 17(1) of the Treaty on European Union, which entrusts the Commission with the task of initiating annual and multiannual programming.

##### *Multiannual programming*

5. Upon the appointment of a new Commission, in order to facilitate longer-term planning, the three Institutions will exchange views on the principal policy objectives and priorities of the three Institutions for the new term as well as, wherever possible, on indicative timing.

The three Institutions will, on the Commission's initiative and as appropriate, draw up joint conclusions to be signed by the Presidents of the three Institutions.

The three Institutions will, on the Commission's initiative, carry out a mid-term review of those joint conclusions and adjust them as appropriate.

<sup>(1)</sup> OJ C 102, 4.4.1996, p. 2.

<sup>(2)</sup> OJ C 73, 17.3.1999, p. 1.

<sup>(3)</sup> OJ C 77, 28.3.2002, p. 1.

<sup>(4)</sup> OJ C 145, 30.6.2007, p. 5.

<sup>(5)</sup> OJ C 369, 17.12.2011, p. 15.

*Annual programming – Commission Work Programme and interinstitutional programming*

6. The Commission will engage in a dialogue with the European Parliament and the Council respectively, both before and after the adoption of its annual Work Programme ("the Commission Work Programme"). That dialogue will encompass the following:

- (a) early bilateral exchanges of views on initiatives for the upcoming year will take place in advance of the submission of a written contribution from the President of the Commission and its First Vice-President setting out in appropriate detail items of major political importance for the following year and containing indications with regard to intended withdrawals of Commission proposals ("letter of intent");
- (b) following the debate on the State of the Union, and before the adoption of the Commission Work Programme, the European Parliament and the Council will have an exchange of views with the Commission on the basis of the letter of intent;
- (c) an exchange of views will take place between the three Institutions on the adopted Commission Work Programme, pursuant to paragraph 7.

The Commission will duly take account of the views expressed by the European Parliament and the Council at each stage of the dialogue, including their requests for initiatives.

7. Following the adoption of the Commission Work Programme and drawing on it, the three Institutions will exchange views on initiatives for the coming year and agree on a joint declaration on annual interinstitutional programming ("joint declaration"), to be signed by the Presidents of the three Institutions. The joint declaration will set out broad objectives and priorities for the following year and will identify items of major political importance which, without prejudice to the powers conferred by the Treaties on the co-legislators, should receive priority treatment in the legislative process.

The three Institutions will monitor, on a regular basis throughout the year, the implementation of the joint declaration. To that end, the three Institutions will participate in debates on the implementation of the joint declaration in the European Parliament and/or the Council during the spring of the year in question.

8. The Commission Work Programme will include major legislative and non-legislative proposals for the following year, including repeals, recasts, simplifications and withdrawals. For each item, the Commission Work Programme will indicate the following, as far as available: the intended legal basis; the type of legal act; an indicative timetable for adoption by the Commission; and any other relevant procedural information, including information concerning impact assessment and evaluation work.

9. In accordance with the principles of sincere cooperation and of institutional balance, when the Commission intends to withdraw a legislative proposal, whether or not such withdrawal is to be followed by a revised proposal, it will provide the reasons for such withdrawal, and, if applicable, an indication of the intended subsequent steps along with a precise timetable, and will conduct proper interinstitutional consultations on that basis. The Commission will take due account of, and respond to, the co-legislators' positions.

10. The Commission will give prompt and detailed consideration to requests for proposals for Union acts made by the European Parliament or the Council pursuant to Article 225 or Article 241 of the Treaty on the Functioning of the European Union respectively.

The Commission will reply to such requests within three months, stating the follow-up it intends to give to them by adopting a specific communication. If the Commission decides not to submit a proposal in response to such a request, it will inform the institution concerned of the detailed reasons, and will provide, where appropriate, an analysis of possible alternatives and respond to any issues raised by the co-legislators in relation to analyses concerning 'European added value' and concerning the "cost of non-Europe".

If so requested, the Commission will present its reply in the European Parliament or in the Council.

11. The Commission will provide regular updates on its planning throughout the year and give reasons for any delay in the presentation of the proposals included in its Work Programme. The Commission will regularly report to the European Parliament and to the Council on the implementation of its Work Programme for the year in question.

### III. TOOLS FOR BETTER LAW-MAKING

#### *Impact assessment*

12. The three Institutions agree on the positive contribution of impact assessments in improving the quality of Union legislation.

Impact assessments are a tool to help the three Institutions reach well-informed decisions and not a substitute for political decisions within the democratic decision-making process. Impact assessments must not lead to undue delays in the law-making process or prejudice the co-legislators' capacity to propose amendments.

Impact assessments should cover the existence, scale and consequences of a problem and the question whether or not Union action is needed. They should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses. The principles of subsidiarity and proportionality should be fully respected, as should fundamental rights. Impact assessments should also address, whenever possible, the "cost of non-Europe" and the impact on competitiveness and the administrative burdens of the different options, having particular regard to SMEs ("Think Small First"), digital aspects and territorial impact. Impact assessments should be based on accurate, objective and complete information and should be proportionate as regards their scope and focus.

13. The Commission will carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental or social impacts. The initiatives included in the Commission Work Programme or in the joint declaration will, as a general rule, be accompanied by an impact assessment.

In its own impact assessment process, the Commission will consult as widely as possible. The Commission's Regulatory Scrutiny Board will carry out an objective quality check of its impact assessments. The final results of the impact assessments will be made available to the European Parliament, the Council and national Parliaments, and will be made public along with the opinion(s) of the Regulatory Scrutiny Board at the time of adoption of the Commission initiative.

14. The European Parliament and the Council, upon considering Commission legislative proposals, will take full account of the Commission's impact assessments. To that end, impact assessments shall be presented in such a way as to facilitate the consideration by the European Parliament and the Council of the choices made by the Commission.

15. The European Parliament and the Council will, when they consider this to be appropriate and necessary for the legislative process, carry out impact assessments in relation to their substantial amendments to the Commission's proposal. The European Parliament and the Council will, as a general rule, take the Commission's impact assessment as the starting point for their further work. The definition of a 'substantial' amendment should be for the respective Institution to determine.

16. The Commission may, on its own initiative or upon invitation by the European Parliament or the Council, complement its own impact assessment or undertake other analytical work it considers necessary. When doing so, the Commission will take into account all available information, the stage reached in the legislative process and the need to avoid undue delays in that process. The co-legislators will take full account of any additional elements provided by the Commission in that context.

17. Each of the three Institutions is responsible for determining how to organise its impact assessment work, including internal organisational resources and quality control. They will, on a regular basis, cooperate by exchanging information on best practice and methodologies relating to impact assessments, enabling each Institution to further improve its own methodology and procedures and the coherence of the overall impact assessment work.

18. The Commission's initial impact assessment and any additional impact assessment work conducted during the legislative process by the Institutions will be made public by the end of the legislative process and, taken together, can be used as the basis for evaluation.

*Public and stakeholder consultation and feedback*

19. Public and stakeholder consultation is integral to well-informed decision-making and to improving the quality of law-making. Without prejudice to the specific arrangements applying to the Commission's proposals under Article 155(2) of the Treaty on the Functioning of the European Union, the Commission will, before adopting a proposal, conduct public consultations in an open and transparent way, ensuring that the modalities and time-limits of those public consultations allow for the widest possible participation. The Commission will in particular encourage the direct participation of SMEs and other end-users in the consultations. This will include public internet-based consultations. The results of public and stakeholder consultations shall be communicated without delay to both co-legislators and made public.

*Ex-post evaluation of existing legislation*

20. The three Institutions confirm the importance of the greatest possible consistency and coherence in organising their work to evaluate the performance of Union legislation, including related public and stakeholder consultations.

21. The Commission will inform the European Parliament and the Council of its multiannual planning of evaluations of existing legislation and will, to the extent possible, include in that planning their requests for in-depth evaluation of specific policy areas or legal acts.

The Commission's evaluation planning will respect the timing for reports and reviews set out in Union legislation.

22. In the context of the legislative cycle, evaluations of existing legislation and policy, based on efficiency, effectiveness, relevance, coherence and value added, should provide the basis for impact assessments of options for further action. To support these processes, the three Institutions agree to, as appropriate, establish reporting, monitoring and evaluation requirements in legislation, while avoiding overregulation and administrative burdens, in particular on Member States. Where appropriate, such requirements can include measurable indicators as a basis on which to collect evidence of the effects of legislation on the ground.

23. The three Institutions agree to systematically consider the use of review clauses in legislation and to take account of the time needed for implementation and for gathering evidence on results and impacts.

The three Institutions will consider whether to limit the application of certain legislation to a fixed period of time ("sunset clause").

24. The three Institutions shall inform each other in good time before adopting or revising their guidelines concerning their tools for Better Law-Making (public and stakeholder consultations, impact assessments and ex-post evaluations).

## IV. LEGISLATIVE INSTRUMENTS

25. The Commission shall provide, in relation to each proposal, an explanation and justification to the European Parliament and to the Council regarding its choice of legal basis and type of legal act in the explanatory memorandum accompanying the proposal. The Commission should take due account of the difference in nature and effects between regulations and directives.

The Commission shall also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality and how they are compatible with fundamental rights. The Commission shall, in addition, give an account of both the scope and the results of any public and stakeholder consultation, impact assessment and ex-post evaluation of existing legislation that it has undertaken.

If a modification of the legal basis entailing a change from the ordinary legislative procedure to a special legislative procedure or a non-legislative procedure is envisaged, the three Institutions will exchange views thereon.

The three Institutions agree that the choice of legal basis is a legal determination that must be made on objective grounds which are amenable to judicial review.

The Commission shall continue to fully play its institutional role to ensure that the Treaties and the case-law of the Court of Justice of the European Union are respected.

## V. DELEGATED AND IMPLEMENTING ACTS

26. The three Institutions underline the important role played by delegated and implementing acts in Union law. Used in an efficient, transparent manner and in justified cases, they are an integral tool for Better Law-Making, contributing to simple, up-to-date legislation and its efficient, swift implementation. It is the competence of the legislator to decide whether and to what extent to use delegated or implementing acts, within the limits of the Treaties.

27. The three Institutions acknowledge the need for the alignment of all existing legislation to the legal framework introduced by the Lisbon Treaty, and in particular the need to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny. The Commission will propose that latter alignment by the end of 2016.

28. The three Institutions have agreed on a Common Understanding on Delegated Acts and on the related standard clauses ("the Common Understanding"), annexed hereto. In accordance with the Common Understanding and with a view to enhancing transparency and consultation, the Commission commits to gathering, prior to the adoption of delegated acts, all necessary expertise, including through the consultation of Member States' experts and through public consultations.

Moreover, and whenever broader expertise is needed in the early preparation of draft implementing acts, the Commission will make use of expert groups, consult targeted stakeholders and carry out public consultations, as appropriate.

To ensure equal access to all information, the European Parliament and Council shall receive all documents at the same time as Member States' experts. Experts from the European Parliament and from the Council shall systematically have access to the meetings of Commission expert groups to which Member States' experts are invited and which concern the preparation of delegated acts.

The Commission may be invited to meetings in the European Parliament or the Council in order to have a further exchange of views on the preparation of delegated acts.

The three Institutions will enter into negotiations without undue delay after the entry into force of this Agreement, with a view to supplementing the Common Understanding by providing for non-binding criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union.

29. The three Institutions commit to set up, at the latest by the end of 2017 and in close cooperation, a joint functional register of delegated acts, providing information in a well-structured and user-friendly way, in order to enhance transparency, facilitate planning and enable traceability of all the different stages in the lifecycle of a delegated act.

30. As regards the Commission's exercise of implementing powers, the three Institutions agree to refrain from adding, in Union legislation, procedural requirements which would alter the mechanisms for control set out in Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>. Committees carrying out their tasks under the procedure set up under that Regulation should not, in that capacity, be called upon to exercise other functions.

31. On condition that the Commission provides objective justifications based on the substantive link between two or more empowerments contained in a single legislative act, and unless the legislative act provides otherwise, empowerments may be bundled. Consultations in the preparation of delegated acts also serve to indicate which empowerments are considered to be substantively linked. In such cases, any objection by the European Parliament or the Council will indicate clearly to which empowerment it specifically relates.

## VI. TRANSPARENCY AND COORDINATION OF THE LEGISLATIVE PROCESS

32. The three Institutions acknowledge that the ordinary legislative procedure has developed on the basis of regular contacts at all stages of the procedure. They remain committed to further improving the work done under the ordinary legislative procedure in line with the principles of sincere cooperation, transparency, accountability and efficiency.

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

The three Institutions agree in particular that the European Parliament and the Council, as the co-legislators, are to exercise their powers on an equal footing. The Commission shall carry out its role as facilitator by treating the two branches of the legislative authority equally, in full respect of the roles assigned by the Treaties to the three Institutions.

33. The three Institutions will keep each other regularly informed throughout the legislative process about their work, about on-going negotiations among them and about any stakeholder feedback that they may receive, via appropriate procedures, including dialogue between them.

34. The European Parliament and the Council, in their capacity as co-legislators, agree on the importance of maintaining close contacts already in advance of interinstitutional negotiations, so as to achieve a better mutual understanding of their respective positions. To that end, in the context of the legislative process, they will facilitate mutual exchange of views and information, including by inviting representatives of the other institutions to informal exchanges of views on a regular basis.

35. The European Parliament and the Council will, in the interest of efficiency, ensure a better synchronisation of their treatment of legislative proposals. In particular, the European Parliament and the Council will compare indicative timetables for the various stages leading to the final adoption of each legislative proposal.

36. Where appropriate, the three Institutions may agree to coordinate efforts to accelerate the legislative process while ensuring that the prerogatives of the co-legislators are respected and that the quality of legislation is preserved.

37. The three Institutions agree that the provision of information to national Parliaments must allow the latter to exercise fully their prerogatives under the Treaties.

38. The three Institutions will ensure the transparency of legislative procedures, on the basis of relevant legislation and case-law, including an appropriate handling of trilateral negotiations.

The three Institutions will improve communication to the public during the whole legislative cycle and in particular will announce jointly the successful outcome of the legislative process in the ordinary legislative procedure once they have reached agreement, namely through joint press conferences or any other means considered appropriate.

39. In order to facilitate traceability of the various steps in the legislative process, the three Institutions undertake to identify, by 31 December 2016, ways of further developing platforms and tools to that end, with a view to establishing a dedicated joint database on the state of play of legislative files.

40. The three Institutions acknowledge the importance of ensuring that each Institution can exercise its rights and fulfil its obligations enshrined in the Treaties as interpreted by the Court of Justice of the European Union regarding the negotiation and conclusion of international agreements.

The three Institutions commit to meet within six months after the entry into force of this Agreement in order to negotiate improved practical arrangements for cooperation and information-sharing within the framework of the Treaties, as interpreted by the Court of Justice of the European Union.

#### VII. IMPLEMENTATION AND APPLICATION OF UNION LEGISLATION

41. The three Institutions agree on the importance of a more structured cooperation among them to assess the application and effectiveness of Union law with a view to its improvement through future legislation.

42. The three Institutions stress the need for the swift and correct application of Union legislation in the Member States. The time limit for transposition of directives will be as short as possible and, generally, will not exceed two years.

43. The three Institutions call upon the Member States, when they adopt measures to transpose or implement Union legislation or to ensure the implementation of the Union budget, to communicate clearly to their public on those measures. When, in the context of transposing directives into national law, Member States choose to add elements that are in no way related to that Union legislation, such additions should be made identifiable either through the transposing act(s) or through associated documents.



44. The three Institutions call upon the Member States to cooperate with the Commission in obtaining information and data needed to monitor and evaluate the implementation of Union law. The three Institutions recall and stress the importance of the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>(1)</sup> and of the Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents, regarding explanatory documents which accompany the notification of transposition measures.

45. The Commission will continue to report annually to the European Parliament and the Council on the application of Union legislation. The Commission's report includes, where relevant, reference to the information mentioned in paragraph 43. The Commission may provide further information on the state of implementation of a given legal act.

#### VIII. SIMPLIFICATION

46. The three Institutions confirm their commitment to using the legislative technique of recasting for the modification of existing legislation more frequently and in full respect of the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts. Where recasting is not appropriate, the Commission will submit a proposal in accordance with the Interinstitutional Agreement of 20 December 1994 –Accelerated working method for official codification of legislative texts as soon as possible after the adoption of an amending act. If the Commission does not submit such a proposal, it shall state the reasons for not doing so.

47. The three Institutions commit to promoting the most efficient regulatory instruments, such as harmonisation and mutual recognition, in order to avoid overregulation and administrative burdens and fulfil the objectives of the Treaties.

48. The three Institutions agree to cooperate in order to update and simplify legislation and to avoid overregulation and administrative burdens for citizens, administrations and businesses, including SMEs, while ensuring that the objectives of the legislation are met. In this context, the three Institutions agree to exchange views on this matter prior to finalisation of the Commission Work Programme.

By way of contribution to its regulatory fitness and performance programme (REFIT), the Commission undertakes to present annually an overview, including an annual burden survey, of the results of the Union's efforts to simplify legislation and to avoid overregulation and reduce administrative burdens.

Based on the Institutions' impact assessment and evaluation work and input from Member States and stakeholders, and while taking into account the costs and benefits of Union regulation, the Commission will, wherever possible, quantify the regulatory burden reduction or savings potential of individual proposals or legal acts.

The Commission will also assess the feasibility of establishing, in REFIT, objectives for the reduction of burdens in specific sectors.

#### IX. IMPLEMENTATION AND MONITORING OF THIS AGREEMENT

49. The three Institutions will take the necessary steps to ensure that they have the means and resources required for the proper implementation of this Agreement.

50. The three Institutions will monitor the implementation of this Agreement jointly and regularly, at both the political level through annual discussions and the technical level in the Interinstitutional Coordination Group.

#### X. FINAL PROVISIONS

51. This Interinstitutional Agreement replaces the Interinstitutional Agreement on Better Law-Making of 16 December 2003 <sup>(2)</sup> and the Interinstitutional Common Approach to impact Assessment of November 2005 <sup>(3)</sup>.

The Annex to this Agreement replaces the 2011 Common Understanding on Delegated Acts.

52. This Agreement shall enter into force on the day of its signature.

<sup>(1)</sup> OJ C 369, 17.12.2011, p. 14.

<sup>(2)</sup> OJ C 321, 31.12.2003, p. 1.

<sup>(3)</sup> [http://ec.europa.eu/smart-regulation/impact/key\\_docs/docs/ii\\_common\\_approach\\_to\\_ia\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/key_docs/docs/ii_common_approach_to_ia_en.pdf)

Съставено в Страсбург, 13 април 2016 г.  
 Hecho en Estrasburgo, el 13 de abril de 2016.  
 Ve Štrasburku dne 13. dubna 2016.  
 Udfærdiget i Strasbourg, den 13. april 2016.  
 Geschehen zu Straßburg am 13. April 2016.  
 Strasbourg, 13. aprill 2016  
 Έγινε στο Στρασβούργο, 13 Απριλίου 2016.  
 Done at Strasbourg, 13 April 2016.  
 Fait à Strasbourg, le 13 avril 2016.  
 Arna dhéanamh in Strasbourg, an 13 Aibreán 2016.  
 Sastavljeno u Strasbourgu 13. travnja 2016.  
 Fatto a Strasburgo, addì 13 aprile 2016.

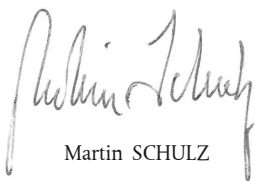
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 Gedaan te Straatsburg, 13 april 2016.  
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 Feito em Estrasburgo, em 13 de abril de 2016.  
 Intocmit la Strasbourg 13 aprilie 2016.  
 V Štrasburgu 13. apríla 2016.  
 V Strasbourg, 13. aprila 2016.  
 Tehty Strasbourgissa 13. huhtikuuta 2016.  
 Som skedde i Strasbourg den 13 april 2016.

За Европейския парламент  
 Por el Parlamento Europeo  
 Za Evropský parlament  
 For Europa-Parlamentet  
 Im Namen des Europäischen Parlaments  
 Euroopa Parlamendi nimel  
 Για το Ευρωπαϊκό Κοινοβούλιο  
 For the European Parliament  
 Pour le Parlement européen  
 Thar ceann Pharlaimint na hEorpa  
 Za Europski parlament  
 Per il Parlamento europeo  
 Eiroparlamenta vārdā  
 Europos Parlamento vardu  
 Az Európai Parlament részéről  
 Ghall-Parlament Ewropew  
 Voor het Europees Parlement  
 W imieniu Parlamentu Europejskiego  
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 Pentru Parlamentul European  
 Za Európsky parlament  
 Za Evropski parlament  
 Euroopan parlamentin puolesta  
 På Europaparlamentets vägnar

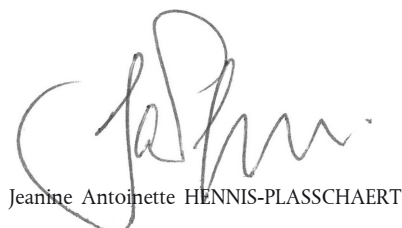
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 Za Radu  
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 Pour la Commission  
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 Za Komisiju  
 Per la Commissione  
 Komisijas vārdā  
 Komisijos vardu  
 A Bizottság részéről  
 Ghall-Kummissjoni  
 Voor de Commissie  
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 Pentru Comisie  
 Za Komisiu  
 Za Komisijo  
 Komission puolesta  
 På kommissionens vägnar

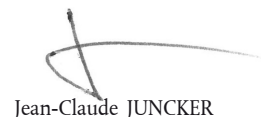
Председател/El Presidente/Předseda/Formand/Der Präsident/President-Eesistuja/  
 Ο Πρόεδρος/The President/Le Président/An tUachtarán/Predsjednik/  
 Il Presidente/Priekšsēdētājs/Pirmininkas/Az elnök/Il-President/de Voorzitter/  
 Przewodniczący/O Presidente/Preşedintele/Předseda/Predsednik/Puheenjohtaja/Ordförande



Martin SCHULZ



Jeanine Antoinette HENNIS-PLASSCHAERT



Jean-Claude JUNCKER



## ANNEX

**Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts****I. Scope and general principles**

1. This Common Understanding builds upon, and replaces, the 2011 Common Understanding on Delegated Acts and streamlines the practice established thereafter by the European Parliament and the Council. It sets out the practical arrangements and agreed clarifications and preferences applicable to delegations of legislative power under Article 290 of the Treaty on the Functioning of the European Union (TFEU). That Article requires that the objectives, content, scope and duration of a delegation be expressly defined in each legislative act that includes such a delegation ("the basic act").
2. In exercising their powers and in compliance with the procedures laid down in the TFEU, the European Parliament, the Council and the Commission ("the three Institutions") shall cooperate throughout the procedure with a view to a smooth exercise of delegated power and an effective control of that power by the European Parliament and the Council. To that end, appropriate contacts at administrative level shall be maintained.
3. When proposing delegations of power under Article 290 TFEU, or delegating any such power, the Institutions concerned, depending on the procedure for the adoption of the basic act, undertake to refer as far as possible to the standard clauses set out in the Appendix hereto.

**II. Consultations in the preparation and drawing-up of delegated acts**

4. The Commission shall consult experts designated by each Member State in the preparation of draft delegated acts. The Member States' experts shall be consulted in a timely manner on each draft delegated act prepared by the Commission services (\*). The draft delegated acts shall be shared with the Member States' experts. Those consultations shall take place via existing expert groups, or via ad hoc meetings with experts from the Member States, for which the Commission shall send invitations via the Permanent Representations of all Member States. It is for the Member States to decide which experts are to participate. Member States' experts shall be provided with the draft delegated acts, the draft agenda and any other relevant documents in sufficient time to prepare.
5. At the end of any meeting with Member States' experts or in the follow-up to such meetings, the Commission services shall state the conclusions they have drawn from the discussions, including how they will take the experts' views into consideration and how they intend to proceed. Those conclusions will be recorded in the minutes of the meeting.
6. The preparation and drawing-up of delegated acts may also include consultations with stakeholders.
7. Where the material content of a draft delegated act is changed in any way, the Commission shall give Member States' experts the opportunity to react, where appropriate in writing, to the amended version of the draft delegated act.
8. A summary of the consultation process shall be included in the explanatory memorandum accompanying the delegated act.
9. The Commission shall make indicative lists of planned delegated acts available at regular intervals.

(\*) The specificities of the procedure for preparing regulatory technical standards (RTS) as described in the ESA Regulations [Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12), Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48) and Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84)] will be taken into account without prejudice to the consultation arrangements laid down in this Agreement.

10. When preparing and drawing up delegated acts, the Commission shall ensure a timely and simultaneous transmission of all documents, including the draft acts, to the European Parliament and the Council at the same time as to Member States' experts.
11. Where they consider this necessary, the European Parliament and the Council may each send experts to meetings of the Commission expert groups dealing with the preparation of delegated acts to which Member States' experts are invited. To that end, the European Parliament and the Council shall receive the planning for the following months and invitations for all experts meetings.
12. The three Institutions shall indicate to each other their respective functional mailboxes to be used for the transmission and receipt of all documents relating to delegated acts. Once the register referred to in paragraph 29 of this Agreement has been established, it shall be used for that purpose.

### III. Arrangements for the transmission of documents and computation of time periods

13. By way of an appropriate mechanism, the Commission shall officially transmit the delegated acts to the European Parliament and the Council. Classified documents shall be processed in accordance with internal administrative procedures drawn up by each Institution with a view to providing all the requisite guarantees.
14. In order to ensure that the European Parliament and the Council are able to exercise the rights provided for in Article 290 TFEU within the time limits laid down in each basic act, the Commission shall not transmit any delegated acts during the following periods:

— from 22 December to 6 January;

— from 15 July to 20 August.

These periods shall only apply when the period of objection is based on point 18.

These periods shall not apply in relation to delegated acts adopted under the urgency procedure provided for in part VI of this Common Understanding. In the event that a delegated act is adopted under the urgency procedure during one of the periods specified in the first subparagraph, the time limit for objection provided for in the basic act shall start to run only when the period in question has come to an end.

By October of the year preceding the elections to the European Parliament, the three Institutions shall agree on an arrangement for the notification of delegated acts during the election recess.

15. The period for expressing objections shall start when all official language versions of the delegated act have been received by the European Parliament and the Council.

### IV. Duration of the delegation

16. The basic act may empower the Commission to adopt delegated acts for an indeterminate or determinate period of time.
17. Where a determinate period of time is prescribed, the basic act should in principle provide for the delegation of power to be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegated power not later than nine months before the end of each period. This point does not affect the European Parliament's or the Council's right of revocation.

### V. Periods for objection by the European Parliament and Council

18. Without prejudice to the urgency procedure, the period for objection defined on a case-by-case basis in each basic act should in principle be of two months, and not less than that, extendable for each institution (the European Parliament or the Council) by two months at its initiative.

19. However, the delegated act may be published in the *Official Journal of the European Union*, and may enter into force before the expiry of that period, if the European Parliament and the Council have both informed the Commission that they will not object.

#### VI. Urgency procedure

20. An urgency procedure should be reserved for exceptional cases, such as security and safety matters, the protection of health and safety, or external relations, including humanitarian crises. The European Parliament and the Council should justify the choice of an urgency procedure in the basic act. The basic act shall specify the cases in which the urgency procedure is to be used.
21. The Commission undertakes to keep the European Parliament and the Council fully informed about the possibility of a delegated act being adopted under the urgency procedure. As soon as the Commission services anticipate such a possibility, they shall informally forewarn the secretariats of the European Parliament and the Council to that effect via the functional mailboxes referred to in point 12.
22. A delegated act adopted under the urgency procedure shall enter into force without delay and shall apply as long as no objection is expressed within the period provided for in the basic act. If an objection is expressed by the European Parliament or by the Council, the Commission shall repeal the act immediately following notification by the European Parliament or the Council of the decision to object.
23. When notifying a delegated act under the urgency procedure to European Parliament and the Council, the Commission shall state the reasons for the use of that procedure.

#### VII. Publication in the Official Journal

24. Delegated acts shall be published in the L series of the *Official Journal of the European Union* only after the expiry of the period for objection, save in the circumstances set out in point 19. Delegated acts adopted under the urgency procedure shall be published without delay.
25. Without prejudice to Article 297 TFEU, decisions by the European Parliament or Council to revoke a delegation of power, to object to a delegated act adopted under the urgency procedure or to oppose the tacit renewal of a delegation of power shall also be published in the L series of the *Official Journal of the European Union*. A decision to revoke shall enter into force the day following its publication in the *Official Journal of the European Union*.
26. The Commission shall also publish in the *Official Journal of the European Union* decisions repealing delegated acts adopted under the urgency procedure.

#### VIII. Mutual exchange of information, in particular in the event of a revocation

27. When exercising their rights in applying the conditions laid down in the basic act, the European Parliament and the Council will inform each other and the Commission.
  28. When either the European Parliament or the Council initiates a procedure which could lead to the revocation of a delegation of power, it will inform the other two Institutions at the latest one month before taking the decision to revoke.
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## Appendix

## Standard clauses

## Recital:

In order to ... [*objective*], the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ... [*content and scope*]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

## Article(s) delegating power

The Commission [shall adopt/is empowered to adopt] delegated acts in accordance with Article [A] concerning ... [*content and scope*].

The following supplementary paragraph is to be added where the urgency procedure applies:

Where, in the case of ... [*content and scope*], imperative grounds of urgency so require, the procedure provided for in Article [B] shall apply to delegated acts adopted pursuant to this Article.

## Article [A]

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

[duration]

## Option 1:

2. The power to adopt delegated acts referred to in Article(s) ... shall be conferred on the Commission for an indeterminate period of time from ... [*date of entry into force of the basic legislative act or any other date set by the co-legislators*].

## Option 2:

2. The power to adopt delegated acts referred to in Article(s) ... shall be conferred on the Commission for a period of ... years from ... [*date of entry into force of the basic legislative act or any other date set by the co-legislators*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the ...-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

## Option 3:

2. The power to adopt delegated acts referred to in Article[s] ... shall be conferred on the Commission for a period of ... years from the ... [*date of entry into force of the basic legislative act or any other date set by the co-legislators*].
3. The delegation of power referred to in Article(s) ... may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article(s) ... shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

The following supplementary article is to be added where the urgency procedure applies:

*Article [B]*

**Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
  2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article [A](6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.
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## II

*(Non-legislative acts)*

# INTERINSTITUTIONAL AGREEMENTS

## **STATEMENT OF THE EUROPEAN PARLIAMENT AND OF THE COMMISSION ON THE OCCASION OF THE ADOPTION OF THE INTERINSTITUTIONAL AGREEMENT ON BETTER LAW-MAKING OF 13 APRIL 2016**

The European Parliament and the Commission consider that the Agreement <sup>(1)</sup> reflects the balance between, and respective competences of, the European Parliament, the Council and the Commission as set out in the Treaties.

It is without prejudice to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission <sup>(2)</sup>.

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<sup>(1)</sup> OJ L 123, 12.5.2016, p. 1.  
<sup>(2)</sup> OJ L 304, 20.11.2010, p. 47.

**DECISION OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE  
COMMISSION OF 19 APRIL 1995 ON THE DETAILED PROVISIONS GOVERNING  
THE EXERCISE OF THE EUROPEAN PARLIAMENT'S RIGHT OF INQUIRY<sup>1</sup>**

The European Parliament, the Council and the Commission,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 20b thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 193 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 107b thereof,

Whereas the detailed provisions governing the exercise of the European Parliament's right of inquiry should be determined with due regard for the provisions laid down by the Treaties establishing the European Communities;

Whereas temporary committees of inquiry must have the means necessary to perform their duties; whereas, to that end, it is essential that the Member States and the institutions and bodies of the European Communities take all steps to facilitate the performance of those duties;

Whereas the secrecy and confidentiality of the proceedings of temporary committees of inquiry must be protected;

Whereas, at the request of one of the three institutions concerned, the detailed provisions governing the exercise of the right of inquiry may be revised as from the end of the current term of the European Parliament in the light of experience,

HAVE BY COMMON ACCORD ADOPTED THIS DECISION:

**Article 1**

The detailed provisions governing the exercise of the European Parliament's right of inquiry shall be as laid down by this Decision, in accordance with Article 20b of the ECSC Treaty, Article 193 of the EC Treaty and Article 107b of the EAEC Treaty.

**Article 2**

1. Subject to the conditions and limits laid down by the Treaties referred to in Article 1 and in the course of its duties, the European Parliament may, at the request of one quarter of its Members, set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of Community law which would appear to be the act of an institution or a body of the European Communities, of a public administrative body of a Member State or of persons empowered by Community law to implement that law.

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<sup>1</sup>OJ L 113, 19.5.1995, p. 1.

The European Parliament shall determine the composition and rules of procedure of temporary committees of inquiry.

The decision to set up a temporary committee of inquiry, specifying in particular its purpose and the time limit for submission of its report, shall be published in the *Official Journal of the European Communities*.

2. The temporary committee of inquiry shall carry out its duties in compliance with the powers conferred by the Treaties on the institutions and bodies of the European Communities.

The members of the temporary committee of inquiry and any other persons who, by reason of their duties, have become acquainted with facts, information, knowledge, documents or objects in respect of which secrecy must be observed pursuant to provisions adopted by a Member State or by a Community institution shall be required, even after their duties have ceased, to keep them secret from any unauthorised person and from the public.

Hearings and testimony shall take place in public. Proceedings shall take place in camera if requested by one quarter of the members of the committee of inquiry, or by the Community or national authorities, or where the temporary committee of inquiry is considering secret information. Witnesses and experts shall have the right to make a statement or provide testimony in camera.

3. A temporary committee of inquiry may not investigate matters at issue before a national or Community court of law until such time as the legal proceedings have been completed.

Within a period of two months either of publication in accordance with paragraph 1 or of the Commission being informed of an allegation made before a temporary committee of inquiry of a contravention of Community law by a Member State, the Commission may notify the European Parliament that a matter to be examined by a temporary committee of inquiry is the subject of a Community prelitigation procedure; in such cases the temporary committee of inquiry shall take all necessary steps to enable the Commission fully to exercise the powers conferred on it by the Treaties.

4. The temporary committee of inquiry shall cease to exist on the submission of its report within the time limit laid down when it was set up, or at the latest upon expiry of a period not exceeding twelve months from the date when it was set up, and in any event at the close of the parliamentary term.

By means of a reasoned decision the European Parliament may twice extend the twelve-month period by three months. Such a decision shall be published in the *Official Journal of the European Communities*.

5. A temporary committee of inquiry may not be set up or re-established with regard to matters into which an inquiry has already been held by a temporary committee of inquiry until at least twelve months have elapsed since the submission of the report on that inquiry or the end of its assignment and unless any new facts have emerged.

### **Article 3**

1. The temporary committee of inquiry shall carry out the inquiries necessary to verify alleged contraventions or maladministration in the implementation of Community law under the conditions laid down below.



2. The temporary committee of inquiry may invite an institution or a body of the European Communities or the Government of a Member State to designate one of its members to take part in its proceedings.

3. On a reasoned request from the temporary committee of inquiry, the Member States concerned and the institutions or bodies of the European Communities shall designate the official or servant whom they authorise to appear before the temporary committee of inquiry, unless grounds of secrecy or public or national security dictate otherwise by virtue of national or Community legislation.

The officials or servants in question shall speak on behalf of and as instructed by their Governments or institutions. They shall continue to be bound by the obligations arising from the rules to which they are subject.

4. The authorities of the Member States and the institutions or bodies of the European Communities shall provide a temporary committee of inquiry, where it so requests or on their own initiative, with the documents necessary for the performance of its duties, save where prevented from doing so by reasons of secrecy or public or national security arising out of national or Community legislation or rules.

5. Paragraphs 3 and 4 shall be without prejudice to any other provisions of the Member States which prohibit officials from appearing or documents from being forwarded.

An obstacle arising from reasons of secrecy, public or national security or the provisions referred to in the first subparagraph shall be notified to the European Parliament by a representative authorised to commit the Government of the Member State concerned or the institution.

6. Institutions or bodies of the European Communities shall not supply the temporary committee of inquiry with documents originating in a Member State without first informing the State concerned.

They shall not communicate to the temporary committee of inquiry any documents to which paragraph 5 applies without first obtaining the consent of the Member State concerned.

7. Paragraphs 3, 4 and 5 shall apply to natural or legal persons empowered by Community law to implement that law.

8. In so far as is necessary for the performance of its duties, the temporary committee of inquiry may request any other person to give evidence before it. The temporary committee of inquiry shall inform any person named in the course of an inquiry to whom this might prove prejudicial; it shall hear such a person if that person so requests.

#### **Article 4**

1. The information obtained by the temporary committee of inquiry shall be used solely for the performance of its duties. It may not be made public if it contains material of a secret or confidential nature or names persons.

The European Parliament shall adopt the administrative measures and procedural rules required to protect the secrecy and confidentiality of the proceedings of temporary committees of inquiry.

2. The temporary committee of inquiry's report shall be submitted to the European Parliament, which may decide to make it public subject to the provisions of paragraph 1.

3. The European Parliament may forward to the institutions or bodies of the European Communities or to the Member States any recommendations which it adopts on the basis of the temporary committee of inquiry's report. They shall draw therefrom the conclusions which they deem appropriate.

#### **Article 5**

Any communication addressed to the national authorities of the Member States for the purposes of applying this Decision shall be made through their Permanent Representations to the European Union.

#### **Article 6**

At the request of the European Parliament, the Council or the Commission, the above rules may be revised as from the end of the current term of the European Parliament in the light of experience.

#### **Article 7**

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

**DECISION OF THE EUROPEAN PARLIAMENT OF 18 NOVEMBER 1999  
CONCERNING THE TERMS AND CONDITIONS FOR INTERNAL INVESTIGATIONS IN  
RELATION TO THE PREVENTION OF FRAUD, CORRUPTION AND ANY ILLEGAL  
ACTIVITY DETRIMENTAL TO THE COMMUNITIES' INTERESTS**

The European Parliament,

Having regard to the Treaty establishing the European Community, and in particular Article 199 thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 25 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 112 thereof,

Having regard to its Rules of Procedure, and in particular Rule 186(c)<sup>1</sup> thereof,

Whereas:

Regulation (EC) No 1073/1999 of the European Parliament and of the Council<sup>2</sup> and Council Regulation (Euratom) No 1074/1999<sup>3</sup> concerning investigations conducted by the European Anti-Fraud Office provide that the Office is to initiate and conduct administrative investigations within the institutions, bodies and offices and agencies established by or on the basis of the EC Treaty or the Euratom Treaty;

The responsibility of the European Anti-Fraud Office as established by the Commission extends beyond the protection of financial interests to include all activities relating to the need to safeguard Community interests against irregular conduct liable to give rise to administrative or criminal proceedings;

The scope of the fight against fraud should be broadened and its effectiveness enhanced by exploiting existing expertise in the area of administrative investigations;

Therefore, on the basis of their administrative autonomy, all the institutions, bodies and offices and agencies should entrust to the Office the task of conducting internal administrative investigations with a view to bringing to light serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials and servants of the Communities, as referred to in Articles 11, 12, second and third paragraphs, 13, 14, 16 and 17, first paragraph, of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as 'the Staff Regulations'), detrimental to the interests of those Communities and liable to result in disciplinary or, in appropriate cases, criminal proceedings, or serious misconduct, as referred to in Article 22 of the Staff Regulations, or a failure to comply with the analogous obligations of the Members or staff of the European Parliament not subject to the Staff Regulations;

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<sup>1</sup>Rule now deleted.

<sup>2</sup>OJ L 136, 31.5.1999, p. 1.

<sup>3</sup>OJ L 136, 31.5.1999, p. 8.

Such investigations should be conducted in full compliance with the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, of the texts implementing them and the Staff Regulations;

Such investigations should be carried out under equivalent conditions in all the Community institutions, bodies and offices and agencies; assignment of this task to the Office should not affect the responsibilities of the institutions, bodies, offices or agencies themselves and should in no way reduce the legal protection of the persons concerned;

Pending the amendment of the Staff Regulations, practical arrangements should be laid down stipulating how the members of the institutions and bodies, the managers of the offices and agencies and the officials and servants of the institutions, bodies and offices and agencies are to cooperate in the smooth operation of the internal investigations,

HAS DECIDED AS FOLLOWS:

## **Article 1**

### **Duty to cooperate with the Office**

The Secretary-General, the services and any official or servant of the European Parliament shall be required to cooperate fully with the Office's agents and to lend any assistance required to the investigation. With that aim in view, they shall supply the Office's agents with all useful information and explanations.

Without prejudice to the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, and of the texts implementing them, Members shall cooperate fully with the Office.

## **Article 2**

### **Duty to supply information**

Any official or servant of the European Parliament who becomes aware of evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the interests of the Communities, or of serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials or servants of the Communities or staff not subject to the Staff Regulations liable to result in disciplinary or, in appropriate cases, criminal proceedings, shall inform without delay his Head of Service or Director-General or, if he considers it useful, his Secretary-General or the Office direct, in the case of an official, servant or staff member not subject to the Staff Regulations, or, in the case of failure to comply with the analogous obligations of Members, the President of the European Parliament.

The President, the Secretary-General, the Directors-General and the Heads of Service of the European Parliament shall transmit without delay to the Office any evidence of which they are aware from which the existence of irregularities as referred to in the first paragraph may be presumed.

Officials or servants of the European Parliament must in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in the first and second paragraphs.

Members who acquire knowledge of facts as referred to in the first paragraph shall inform the President of Parliament or, if they consider it useful, the Office direct.

This article applies without prejudice to confidentiality requirements laid down in law or the European Parliament's Rules of Procedure.

### **Article 3**

#### **Assistance from the security office**

At the request of the Director of the Office, the European Parliament's security office shall assist the Office in the practical conduct of investigations.

### **Article 4**

#### **Immunity and right to refuse to testify**

Rules governing Members' parliamentary immunity and the right to refuse to testify shall remain unchanged.

### **Article 5**

#### **Informing the interested party**

Where the possible implication of a Member, official or servant emerges, the interested party shall be informed rapidly as long as this would not be harmful to the investigation. In any event, conclusions referring by name to a Member, official or servant of the European Parliament may not be drawn once the investigation has been completed without the interested party's having been enabled to express his views on all the facts which concern him.

In cases necessitating the maintenance of absolute secrecy for the purposes of the investigation and requiring the use of investigative procedures falling within the remit of a national judicial authority, compliance with the obligation to invite the Member, official or servant of the European Parliament to give his views may be deferred in agreement respectively with the President, in the case of a Member, or the Secretary-General, in the case of an official or servant.

### **Article 6**

#### **Information on the closing of the investigation with no further action taken**

If, following an internal investigation, no case can be made out against a Member, official or servant of the European Parliament against whom allegations have been made, the internal investigation concerning him shall be closed, with no further action taken, by decision of the Director of the Office, who shall inform the interested party in writing.

### **Article 7**

#### **Waiver of immunity**

Any request from a national police or judicial authority regarding the waiver of the immunity from judicial proceedings of an official or servant of the European Parliament concerning possible cases of fraud, corruption or any other illegal activity shall be transmitted to the Director of the Office for his opinion. If a request for waiver of immunity concerns a Member of the European Parliament, the Office shall be informed.

## **Article 8**

### **Effective date**

This Decision shall take effect on the date of its adoption by the European Parliament.

## II

*(Non-legislative acts)*

# INTERNATIONAL AGREEMENTS

### **Interinstitutional Agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism**

(2013/694/EU)

THE EUROPEAN PARLIAMENT AND THE EUROPEAN CENTRAL BANK,

- having regard to the Treaty on European Union,
  - having regard to the Treaty on the Functioning of the European Union, in particular Article 127(6) thereof,
  - having regard to Parliament's Rules of Procedure, in particular Rule 127(1) thereof,
  - having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions <sup>(1)</sup>, in particular Article 20(8) and (9) thereof,
  - having regard to the joint statement by the President of the European Parliament and by the President of the European Central Bank, on the occasion of Parliament's vote for the adoption of Regulation (EU) No 1024/2013,
- A. whereas Regulation (EU) No 1024/2013 confers on the European Central Bank (ECB) specific tasks concerning policies relating to the prudential supervision of credit institutions, with a view to contributing to the safety and soundness of credit institutions and the stability of the financial system within the European Union and each Member State participating in the Single Supervisory Mechanism (SSM);
- B. whereas Article 9 of Regulation (EU) No 1024/2013 establishes that the ECB is the competent authority for the purpose of carrying out the supervisory tasks conferred on it by that Regulation;
- C. whereas the conferral of supervisory tasks implies a significant responsibility for the ECB to contribute to financial stability in the Union, using its supervisory powers in the most effective and proportionate way;
- D. whereas any conferral of supervisory powers to the Union level should be balanced by appropriate accountability requirements; under Article 20 of Regulation (EU) No 1024/2013 the ECB is therefore accountable for the implementation of that Regulation to Parliament and the Council as democratically legitimised institutions representing the citizens of the Union and the Member States;
- E. whereas Article 20(9) of Regulation (EU) No 1024/2013 provides that the ECB is to cooperate sincerely with any investigations by Parliament, subject to the Treaty on the Functioning of the European Union (TFEU);
- F. whereas Article 20(8) of Regulation (EU) No 1024/2013 provides that, upon request, the Chair of the Supervisory Board of the ECB is to hold confidential oral discussions behind closed doors with the Chair and the Vice-Chairs of Parliament's competent committee concerning the ECB's supervisory tasks where such discussions are required for the exercise of Parliament's powers under the TFEU; whereas that Article requires that the arrangements for the organisation of those discussions ensure full confidentiality in accordance with the confidentiality obligations imposed on the ECB as a competent authority under relevant Union law;

<sup>(1)</sup> OJ L 287, 29.10.2013, p. 63.

- G. whereas Article 15(1) TFEU provides that the Union's institutions conduct their work as openly as possible; whereas the conditions under which a document of the ECB is confidential are laid down in Decision 2004/258/EC of the ECB (ECB/2004/3) <sup>(1)</sup>; whereas that Decision provides that any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to ECB documents, subject to the conditions and limits defined in that Decision; whereas in accordance with that Decision the ECB is to refuse disclosure where certain specified public or private interests would be undermined thereby;
- H. whereas the disclosure of information related to the prudential supervision of credit institutions is not at the free disposal of the ECB but subject to limits and conditions as established by relevant Union law to which both Parliament and the ECB are subject; whereas pursuant to Article 37.2 of the Statute of the European System of Central Banks and of the ECB (the 'Statute of the ESCB'), persons having access to data covered by Union legislation imposing an obligation of secrecy are subject to such Union legislation;
- I. whereas Recital 55 of Regulation (EU) No 1024/2013 specifies that any reporting obligations *vis-à-vis* Parliament should be subject to the relevant professional secrecy requirements; whereas Recital 74 and Article 27(1) of that Regulation provide that the members of the Supervisory Board, the steering committee, staff of the ECB and staff seconded by participating Member States carrying out supervisory duties shall be subject to the professional secrecy requirements set out in Article 37 of the Statute of the ESCB and in relevant acts of Union law; whereas Article 339 TFEU and Article 37 of the Statute of the ESCB establish that the members of the governing bodies and the staff of the ECB and the national central banks are bound by the obligation of professional secrecy;
- J. whereas in accordance with Article 10.4 of the Statute of the ESCB the proceedings of the meetings of the ECB's Governing Council are confidential;
- K. whereas Article 4(3) of Regulation (EU) No 1024/2013 provides that, for the purpose of carrying out the tasks conferred on it in that Regulation, the ECB is to apply all relevant Union law, and where this Union law is composed of Directives, the national legislation transposing those directives;
- L. whereas subject to future amendments or any future relevant legal acts, the provisions of Union law relevant in respect of the treatment of information, which has been found to be confidential, in particular Articles 53 to 62 of Directive 2013/36/EU of the European Parliament and of the Council <sup>(2)</sup> impose strict obligations of professional secrecy on the competent authorities and their staff for the supervision of credit institutions; whereas all persons working for or who have worked for the competent authorities are bound by the obligation of professional secrecy; whereas confidential information which they receive in the course of their duties may be disclosed only in summary or aggregate form, such that individual credit institutions cannot be identified, without prejudice to cases covered by criminal law;
- M. whereas Article 27(2) of Regulation (EU) No 1024/2013 provides that for the purpose of carrying out the tasks conferred on it by that Regulation, the ECB is authorised, within the limits and under the conditions set out in the relevant Union law, to exchange information with national or Union authorities and bodies where the relevant Union law allows national competent authorities to disclose information to those entities or where Member States may provide for such disclosure under the relevant Union law;
- N. whereas the breach of professional secrecy requirements in relation to supervisory information should lead to adequate sanctions; whereas Parliament should provide for an adequate framework to follow-up on any case of breach of confidentiality by its Members or staff;
- O. whereas organisational separation of the ECB's staff involved in the execution of the ECB's supervisory tasks from staff involved in the execution of monetary policy tasks must be such that Regulation (EU) No 1024/2013 is fully complied with;
- P. whereas this Agreement does not cover the exchange of confidential information regarding monetary policy or other ECB tasks which are not part of the tasks conferred on the ECB by Regulation (EU) No 1024/2013;
- Q. whereas this Agreement is without prejudice to the accountability of national competent authorities to national parliaments in accordance with national law;

<sup>(1)</sup> Decision 2004/258/EC of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3) (OJ L 80, 18.3.2004, p. 42).

<sup>(2)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).



R. whereas this Agreement does not cover or affect the accountability and reporting obligation of the SSM towards the Council, the Commission or national parliaments;

AGREE AS FOLLOWS:

**I. ACCOUNTABILITY, ACCESS TO INFORMATION, CONFIDENTIALITY**

**1. Reports**

— The ECB shall submit every year a report to Parliament ('Annual Report') on the execution of the tasks conferred on it by Regulation (EU) No 1024/2013. The Chair of the Supervisory Board shall present the Annual Report to Parliament at a public hearing. The draft Annual Report shall be made available to Parliament on a confidential basis in one of the Union official languages four working days in advance of the hearing. Translations in all Union official languages shall be made available subsequently. The Annual Report shall cover, inter alia:

- i. execution of supervisory tasks,
- ii. sharing of tasks with the national supervisory authorities,
- iii. cooperation with other national or Union relevant authorities,
- iv. separation between monetary policy and supervisory tasks,
- v. evolution of supervisory structure and staffing, including the number and the national composition of Seconded National Experts,
- vi. implementation of the Code of Conduct,
- vii. method of calculation and amount of supervisory fees,
- viii. budget for supervisory tasks,
- ix. experience with reporting on the basis of Article 23 of Regulation (EU) No 1024/2013 (Reporting of violations).

— During the start-up phase referred to in Article 33(2) of Regulation (EU) No 1024/2013, the ECB shall transmit to Parliament quarterly reports on progress in the operational implementation of the Regulation covering, inter alia:

- i. internal preparation, organisation and planning of work,

ii. concrete arrangements made to comply with the requirement to separate monetary policy and supervisory functions,

iii. cooperation with other national or Union competent authorities,

iv. any obstacles encountered by the ECB in the preparation of its supervisory tasks,

v. any events of concern or changes to the Code of Conduct.

— The ECB shall publish the Annual Report on the SSM website. The ECB's 'information e-mail hotline' will be extended to deal specifically with SSM-related questions, and the ECB shall convert the feedback received via e-mails into a FAQ section on the SSM website.

**2. Hearings and confidential oral discussions**

— The Chair of the Supervisory Board shall participate in **ordinary** public hearings on the execution of the supervisory tasks on request of Parliament's competent committee. Parliament's competent committee and the ECB shall agree on a calendar for two such hearings to be held in the course of the following year. Requests for changes to the agreed calendar shall be made in writing.

— In addition, the Chair of the Supervisory Board may be invited to additional **ad hoc** exchanges of views on supervisory issues with Parliament's competent committee.

— Where necessary for the exercise of Parliament's powers under the TFEU and Union law, the Chair of its competent committee may request special **confidential** meetings with the Chair of the Supervisory Board in writing, giving reasons. Such meetings shall be held on a mutually agreed date.

— All participants in the special **confidential** meetings shall be subject to confidentiality requirements equivalent to those applying to the members of the Supervisory Board and to the ECB's supervisory staff.

— On a reasoned request by the Chair of the Supervisory Board or the Chair of Parliament's competent committee, and with mutual agreement, the **ordinary** hearings, the **ad hoc** exchanges of views and the

**confidential** meetings can be attended by the ECB representatives in the Supervisory Board or senior members of the supervisory staff (Director Generals or their Deputies).

- The principle of openness of Union institutions in accordance with the TFEU shall apply to the SSM. The discussion in special **confidential** meetings shall follow the principle of openness and elaboration around the relevant circumstances. It involves the exchange of confidential information regarding the execution of the supervisory tasks, within the limit set by Union law. The disclosure might be restricted by confidentiality limits legally foreseen.
- Persons employed by Parliament and by the ECB may not disclose information acquired in the course of their activities related to the tasks conferred on the ECB under Regulation (EU) No 1024/2013, even after such activities have ended or they have left such employment.
- The **ordinary** hearings, **ad hoc** exchanges of views and the **confidential** meetings can cover all aspects of the activity and functioning of the SSM covered by Regulation (EU) No 1024/2013.
- No minutes or any other recording of the **confidential** meetings shall be taken. No statement shall be made for the press or any other media. Each participant to the confidential discussions shall sign every time a solemn declaration not to divulge the content of those discussions to any third person.
- Only the Chair of the Supervisory Board and the Chair and the Vice-Chairs of Parliament's competent committee may attend the **confidential** meetings. Both the Chair of the Supervisory Board and the Chair and the Vice-Chairs of Parliament's competent committee may be accompanied by two members of respectively ECB staff and of Parliament's Secretariat.

### 3. Responding to questions

- The ECB shall reply in writing to written questions put to it by Parliament. Those questions shall be channelled to the Chair of the Supervisory Board via the Chair of Parliament's competent committee. Questions shall be replied as promptly as possible, and in any event within five weeks of their transmission to the ECB.
- Both the ECB and Parliament shall dedicate a specific section of the websites for the questions and answers referred to above.

### 4. Access to information

- The ECB shall provide Parliament's competent committee at least with a comprehensive and meaningful record of the proceedings of the Supervisory Board that enables an understanding of the discussions, including an annotated list of decisions. In the case of an objection of the Governing Council against a draft decision of the Supervisory Board in accordance with Article 26(8) of Regulation (EU) No 1024/2013, the President of the ECB shall inform the Chair of Parliament's competent committee of the reasons for such an objection, in line with the confidentiality requirements referred to in this Agreement.
- In the event of the winding-up of a credit institution, non-confidential information relating to that credit institution shall be disclosed *ex post*, once any restrictions on the provision of relevant information resulting from confidentiality requirements have ceased to apply.
- The supervisory fees and an explanation of how they are calculated shall be published on ECB website.
- The ECB shall publish on its website a guide to its supervisory practices.

### 5. Safeguarding ECB classified information and documents

- Parliament shall implement safeguards and measures corresponding to the level of sensitivity of the ECB information or ECB documents and shall inform the ECB about it. In any event information or documents disclosed will be used only for the purpose for which they have been provided.
- Parliament shall seek the ECB's consent to any disclosure to additional persons or institutions and the two institutions will cooperate in any judicial, administrative or other proceedings in which access to such information or documents is sought. The ECB may request Parliament, with respect to all or certain categories of information or documents disclosed, that it maintains a list of persons having access to these information and documents.

## II. SELECTION PROCEDURES

- The ECB shall specify and make public the criteria for the selection of the Chair of the Supervisory Board, including the balance of skills, knowledge of financial institutions and markets, and experience in financial supervision and macro-prudential oversight. In specifying the criteria, the ECB shall aim at the highest professional standards and take into account the need to safeguard the interest of the Union as a whole and diversity in the composition of the Supervisory Board.

- Parliament's competent committee shall be informed two weeks before the ECB's Governing Council publishes the vacancy notice of the details, including the selection criteria and the specific job profile, of the 'open selection procedure' that it intends to apply for the selection of the Chair.
  - Parliament's competent committee shall be informed by the ECB's Governing Council of the composition of the pool of applicants for the position of Chair (number of applications, mix of professional skills, gender and nationality balance, etc.) as well as of the method through which the pool of applicants is screened in order to draw up a shortlist of at least two candidates and eventually to determine the proposal by the ECB.
  - The ECB shall provide Parliament's competent committee with the shortlist of candidates for the position of the Chair of the Supervisory Board. The ECB shall provide that shortlist at least three weeks before submitting its proposal for the appointment of the Chair.
  - Parliament's competent committee may submit questions to the ECB relating to the selection criteria and the shortlist of candidates within a week from receiving it. The ECB shall respond to such questions in writing within two weeks.
  - The approval process shall comprise the following steps:
    - The ECB shall convey its proposals for the Chair and the Vice-Chair to Parliament together with written explanations of the underlying reasons.
    - A public hearing of the proposed Chair and Vice-Chair of the Supervisory Board shall be held in Parliament's competent committee.
    - Parliament shall decide on the approval of the candidate proposed by the ECB for Chair and Vice-Chair through a vote in the competent committee and in plenary. Parliament will normally, taking into account its calendar, aim at taking that decision within six weeks of the proposal.
    - If the proposal for the Chair is not approved, the ECB may decide either to draw on the pool of candidates that applied originally for the position or to re-initiate the selection process, including elaborating and publishing a new vacancy notice.
    - The ECB shall submit any proposal to remove the Chair or the Vice-Chair from office to Parliament and provide explanations.
  - The approval process shall comprise:
    - a vote in Parliament's competent committee on a draft resolution; and
    - a vote in plenary, for approval or objection, on that resolution.
  - Where Parliament or the Council has informed the ECB that it considers the conditions for the removal of the Chair or the Vice-Chair of the Supervisory Board to be fulfilled for the purposes of Article 26(4) of Regulation (EU) No 1024/2013, the ECB shall provide its considerations in writing within four weeks.
- ### III. INVESTIGATIONS
- Where Parliament sets up a Committee of Inquiry, pursuant to Article 226 TFEU and to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission<sup>(1)</sup>, the ECB, in accordance with Union law, shall assist a Committee of Inquiry in carrying out its tasks in accordance with the principle of sincere cooperation.
  - Any activities of a Committee of Inquiry which the ECB will assist shall take place within the scope of Decision 95/167/EC, Euratom, ECSC.
  - The ECB shall cooperate sincerely with any investigation by Parliament referred to in Article 20(9) of Regulation (EU) No 1024/2013 within the same framework that applies to Committees of Inquiry and under the same confidentiality protection as foreseen in this Agreement for the oral confidential meetings (I.2.).
  - All recipients of information provided to Parliament in the context of investigations shall be subject to confidentiality requirements equivalent to those applying to the members of the Supervisory Board and to the ECB supervisory staff and Parliament and the ECB shall agree on the measures to be applied to ensure the protection of such information.
  - Where the protection of a public or private interest recognised in Decision 2004/258/EC requires that confidentiality is maintained, Parliament shall ensure that this protection is maintained and shall not divulge the content of any such information.
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- <sup>(1)</sup> Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry (OJ L 78, 6.4.1995, p. 1).

- The rights and obligations of the institutions and bodies of the Union as laid down in Decision 95/167/EC, Euratom, ECSC shall apply *mutatis mutandis* to the ECB.
- Any replacement of Decision 95/167/EC, Euratom, ECSC by another legal act or its amendment will lead to a re-negotiation of part III of this Agreement. Until a new Agreement on the respective parts has been found, this Agreement shall stay valid including Decision 95/167/EC, Euratom, ECSC in its version at the date of signature of this Agreement.

#### IV. CODE OF CONDUCT

- Before the adoption of the Code of Conduct referred to in Article 19(3) of Regulation (EU) No 1024/2013, the ECB shall inform Parliament's competent committee on the main elements of the envisaged Code of Conduct.
- Upon written request of Parliament's competent committee, the ECB shall inform Parliament in writing on the implementation of the Code of Conduct. The ECB shall also inform Parliament about the need for updates to the Code of Conduct.
- The Code of Conduct shall address matters of conflict of interest and ensure the respect of the rules on separation between supervisory and monetary policy functions.

#### V. ADOPTION OF ACTS BY THE ECB

- The ECB shall duly inform Parliament's competent committee of the procedures (including timing) it has set up for adoption of ECB regulations, decisions, guidelines and recommendations ('acts'), which are subject to public consultation in accordance with Regulation (EU) No 1024/2013.
- The ECB shall, in particular, inform Parliament's competent committee of the principles and kinds of indicators or information it is generally using in developing acts and policy recommendations, with a view to enhancing transparency and policy consistency.

- The ECB shall transmit to Parliament's competent committee the draft acts before the beginning of the public consultation procedure. Where Parliament submits comments on the acts, there may be informal exchanges of views with the ECB on such comments. Such informal exchanges of views shall take place in parallel with the open public consultations which the ECB shall conduct in accordance with Article 4(3) of Regulation (EU) No 1024/2013.
- Once the ECB has adopted an act, it shall send it to Parliament's competent committee. The ECB shall also regularly inform Parliament in writing about the need to update adopted acts.

#### VI. FINAL PROVISIONS

1. The practical implementation of this Agreement shall be assessed by the two institutions every three years.
2. This Agreement shall enter into force on the date of entry into force of Regulation (EU) No 1024/2013 or on the day after the signature of this Agreement, whichever is later.
3. The obligations concerning confidentiality of information shall continue to be binding on the two institutions even after the termination of this Agreement.
4. This Agreement shall be published in the *Official Journal of the European Union*.

Done at Frankfurt am Main and Brussels, 6 November 2013.

For the European Parliament  
The President  
M. SCHULZ

For the European Central Bank  
The President  
M. DRAGHI

**Communicating Europe in Partnership**

(2009/C 13/02)

**Objectives and principles**

1. The European Parliament, Council and the European Commission attach the utmost importance to improving communication on EU issues in order to enable European citizens to exercise their right to participate in the democratic life of the Union, in which decisions are taken as openly as possible and as closely as possible to the citizens, observing the principles of pluralism, participation, openness and transparency.
2. The three Institutions wish to encourage the convergence of views on the communication priorities of the European Union as a whole, to promote the added value of an EU approach to communication on European issues, to facilitate exchanges of information and best practices and develop synergies between the Institutions when carrying out communication relating to these priorities, as well as to facilitate cooperation among the Institutions and Member States where appropriate.
3. The three Institutions recognise that communicating on the European Union requires a political commitment of EU Institutions and Member States, and that Member States have their responsibility to communicate with citizens about the EU.
4. The three Institutions believe that information and communication activities on European issues should give everyone access to fair and diverse information about the European Union and enable citizens to exercise their right to express their views and to participate actively in the public debate on European Union issues.
5. The three Institutions promote the respect of multilingualism and cultural diversity when implementing information and communication actions.
6. The three Institutions are politically committed to achieving the above objectives. They encourage the other EU institutions and bodies to support their efforts and to contribute, if they so wish, to this approach.

**A partnership approach**

7. The three Institutions recognise the importance of addressing the communication challenge on EU issues in partnership between Member States and the EU institutions to ensure effective communication with, and objective information to, the widest possible audience at the appropriate level.

They wish to develop synergies with national, regional and local authorities as well as with representatives of civil society.

They would like for that purpose to foster a pragmatic partnership approach.

8. They recall in this respect the key role of the Inter-institutional Group on Information (IGI) serving as a high-level framework for the Institutions to encourage political debate on EU-related information and communication activities in order to foster synergy and complementarity. To that purpose, the IGI, co-chaired by representatives of the European Parliament, the Council and the European Commission, and with the participation of the Committee of the Regions and the European Economic and Social Committee as observers, meets in principle twice a year.

**A framework for working together**

The three Institutions intend to cooperate on the following basis:

9. Whilst respecting the individual responsibility of each EU institution and Member State for its own communication strategy and priorities, the three Institutions will, in the framework of the IGI, identify yearly a limited number of common communication priorities.

10. These priorities will be based on communication priorities identified by the EU Institutions and bodies following their internal procedures and complementing, where appropriate, Member States' strategic views and efforts in this field, taking into account citizens' expectations.

11. The three Institutions and the Member States will endeavour to promote appropriate support for communication on the priorities identified.

12. The services responsible for communication in Member States and EU institutions should liaise with each other to ensure successful implementation of the common communication priorities, as well as other activities linked to EU communication, if need be on the basis of appropriate administrative arrangements.

13. The Institutions and Member States are invited to exchange information on other EU related communication activities, in particular on sectoral communication activities envisaged by the Institutions and bodies, when they result in information campaigns in Member States.

14. The Commission is invited to report back at the beginning of each year to the other EU Institutions on the main achievements of the implementation of the common communication priorities of the previous year.

15. This political declaration has been signed on the twenty-second day of October in the year two thousand and eight.

Done at Strasbourg on the twenty-second day of October in the year two thousand and eight.

*For the  
European Parliament  
The President*

*For the  
Council of the European Union  
The President*

*For the Commission  
of the European Communities  
The President*

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## II

*(Information)*

## JOINT DECLARATIONS

EUROPEAN PARLIAMENT  
COUNCIL  
COMMISSIONJOINT DECLARATION ON PRACTICAL ARRANGEMENTS FOR THE CODECISION PROCEDURE  
(ARTICLE 251 OF THE EC TREATY)

(2007/C 145/02)

## GENERAL PRINCIPLES

1. The European Parliament, the Council and the Commission, hereinafter referred to collectively as 'the institutions', note that current practice involving talks between the Council Presidency, the Commission and the chairs of the relevant committees and/or rapporteurs of the European Parliament and between the co-chairs of the Conciliation Committee has proved its worth.
2. The institutions confirm that this practice, which has developed at all stages of the codecision procedure, must continue to be encouraged. The institutions undertake to examine their working methods with a view to making even more effective use of the full scope of the codecision procedure as established by the EC Treaty.
3. This Joint Declaration clarifies these working methods, and the practical arrangements for pursuing them. It complements the Interinstitutional Agreement on Better Lawmaking <sup>(1)</sup> and notably its provisions relating to the co-decision procedure. The institutions undertake fully to respect such commitments in line with the principles of transparency, accountability and efficiency. In this respect, the institutions should pay particular attention to making progress on simplification proposals while respecting the *acquis communautaire*.
4. The institutions shall cooperate in good faith throughout the procedure with a view to reconciling their positions as far as possible and thereby clearing the way, where appropriate, for the adoption of the act concerned at an early stage of the procedure.
5. With that aim in view, they shall cooperate through appropriate interinstitutional contacts to monitor the progress of the work and analyse the degree of convergence at all stages of the codecision procedure.
6. The institutions, in accordance with their internal rules of procedure, undertake to exchange information regularly on the progress of codecision files. They shall ensure that their respective calendars of work are coordinated as far as possible in order to enable proceedings to be conducted in a coherent and convergent fashion. They will therefore seek to establish an indicative timetable for the various stages leading to the final adoption of different legislative proposals, while fully respecting the political nature of the decision-making process.

<sup>(1)</sup> OJ C 321, 31.12.2003, p. 1.

7. Cooperation between the institutions in the context of codecision often takes the form of tripartite meetings ('trilogues'). This trilogue system has demonstrated its vitality and flexibility in increasing significantly the possibilities for agreement at first and second reading stages, as well as contributing to the preparation of the work of the Conciliation Committee.
8. Such trilogues are usually conducted in an informal framework. They may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussion. Each institution, in accordance with its own rules of procedure, will designate its participants for each meeting, define its mandate for the negotiations and inform the other institutions of arrangements for the meetings in good time.
9. As far as possible, any draft compromise texts submitted for discussion at a forthcoming meeting shall be circulated in advance to all participants. In order to enhance transparency, trilogues taking place within the European Parliament and Council shall be announced, where practicable.
10. The Council Presidency will endeavour to attend the meetings of the parliamentary committees. It will carefully consider any request it receives to provide information related to the Council position, as appropriate.

#### **FIRST READING**

11. The institutions shall cooperate in good faith with a view to reconciling their positions as far as possible so that, wherever possible, acts can be adopted at first reading.

#### **Agreement at the stage of first reading in the European Parliament**

12. Appropriate contacts shall be established to facilitate the conduct of proceedings at first reading.
13. The Commission shall facilitate such contacts and shall exercise its right of initiative in a constructive manner with a view to reconciling the positions of the European Parliament and the Council, with due regard for the balance between the institutions and the role conferred on it by the Treaty.
14. Where an agreement is reached through informal negotiations in trilogues, the chair of Coreper shall forward, in a letter to the chair of the relevant parliamentary committee, details of the substance of the agreement, in the form of amendments to the Commission proposal. That letter shall indicate the Council's willingness to accept that outcome, subject to legal-linguistic verification, should it be confirmed by the vote in plenary. A copy of that letter shall be forwarded to the Commission.
15. In this context, where conclusion of a dossier at first reading is imminent, information on the intention to conclude an agreement should be made readily available as early as possible.

#### **Agreement at the stage of Council common position**

16. Where no agreement is reached at the European Parliament's first reading, contacts may be continued with a view to concluding an agreement at the common position stage.
17. The Commission shall facilitate such contacts and shall exercise its right of initiative in a constructive manner with a view to reconciling the positions of the European Parliament and the Council, with due regard for the balance between the institutions and the role conferred on it by the Treaty.
18. Where an agreement is reached at this stage, the chair of the relevant parliamentary committee shall indicate, in a letter to the chair of Coreper, his recommendation to the plenary to accept the Council common position without amendment, subject to confirmation of the common position by the Council and to legal-linguistic verification. A copy of the letter shall be forwarded to the Commission.

#### **SECOND READING**

19. In its statement of reasons, the Council shall explain as clearly as possible the reasons that led it to adopt its common position. During its second reading, the European Parliament shall take the greatest possible account of those reasons and of the Commission's position.
20. Before transmitting the common position, the Council shall endeavour to consider in consultation with the European Parliament and the Commission the date for its transmission in order to ensure the maximum efficiency of the legislative procedure at second reading.



### Agreement at the stage of second reading in the European Parliament

21. Appropriate contacts will continue as soon as the Council common position is forwarded to the European Parliament, with a view to achieving a better understanding of the respective positions and thus to bringing the legislative procedure to a conclusion as quickly as possible.
22. The Commission shall facilitate such contacts and give its opinion with a view to reconciling the positions of the European Parliament and the Council, with due regard for the balance between the institutions and the role conferred on it by the Treaty.
23. Where an agreement is reached through informal negotiations in trilogues, the chair of Coreper shall forward, in a letter to the chair of the relevant parliamentary committee, details of the substance of the agreement, in the form of amendments to the Council common position. That letter shall indicate the Council's willingness to accept that outcome, subject to legal-linguistic verification, should it be confirmed by the vote in plenary. A copy of that letter shall be forwarded to the Commission.

### CONCILIATION

24. If it becomes clear that the Council will not be in a position to accept all the amendments of the European Parliament at second reading and when the Council is ready to present its position, a first trilogue will be organised. Each institution, in accordance with its own rules of procedure, will designate its participants for each meeting and define its mandate for the negotiations. The Commission will indicate to both delegations at the earliest possible stage its intentions with regard to its opinion on the European Parliament's second reading amendments.
25. Trilogues shall take place throughout the conciliation procedure with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee. The results of the trilogues shall be discussed and possibly approved at the meetings of the respective institutions.
26. The Conciliation Committee shall be convened by the President of the Council, with the agreement of the President of the European Parliament and with due regard to the provisions of the Treaty.
27. The Commission shall take part in the conciliation proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council. Such initiatives may include, draft compromise texts having regard to the positions of the European Parliament and of the Council and with due regard for the role conferred upon the Commission by the Treaty.
28. The Conciliation Committee shall be chaired jointly by the President of the European Parliament and the President of the Council. Committee meetings shall be chaired alternately by each co-chair.
29. The dates and the agendas for the Conciliation Committee's meetings shall be set jointly by the co-chairs with a view to the effective functioning of the Conciliation Committee throughout the conciliation procedure. The Commission shall be consulted on the dates envisaged. The European Parliament and the Council shall set aside, for guidance, appropriate dates for conciliation proceedings and shall notify the Commission thereof.
30. The co-chairs may put several dossiers on the agenda of any one meeting of the Conciliation Committee. As well as the principal topic ('B-item'), where agreement has not yet been reached, conciliation procedures on other topics may be opened and/or closed without discussion on these items ('A-item').
31. While respecting the Treaty provisions regarding time-limits, the European Parliament and the Council shall, as far as possible, take account of scheduling requirements, in particular those resulting from breaks in the institutions' activities and from the European Parliament's elections. At all events, the break in activities shall be as short as possible.
32. The Conciliation Committee shall meet alternately at the premises of the European Parliament and the Council, with a view to an equal sharing of facilities, including interpretation facilities.
33. The Conciliation Committee shall have available to it the Commission proposal, the Council common position and the Commission's opinion thereon, the amendments proposed by the European Parliament and the Commission's opinion thereon, and a joint working document by the European Parliament and Council delegations. This working document should enable users to identify the issues at stake easily and to refer to them efficiently. The Commission shall, as a general rule, submit its opinion within three weeks of official receipt of the outcome of the European Parliament's vote and at the latest by the commencement of conciliation proceedings.

34. The co-chairs may submit texts for the Conciliation Committee's approval.
35. Agreement on a joint text shall be established at a meeting of the Conciliation Committee or, subsequently, by an exchange of letters between the co-chairs. Copies of such letters shall be forwarded to the Commission.
36. If the Conciliation Committee reaches agreement on a joint text, the text shall, after legal-linguistic finalisation, be submitted to the co-chairs for formal approval. However, in exceptional cases in order to respect the deadlines, a draft joint text may be submitted to the co-chairs for approval.
37. The co-chairs shall forward the approved joint text to the Presidents of the European Parliament and of the Council by means of a jointly signed letter. Where the Conciliation Committee is unable to agree on a joint text, the co-chairs shall notify the Presidents of the European Parliament and of the Council thereof in a jointly signed letter. Such letters shall serve as an official record. Copies of such letters shall be forwarded to the Commission for information. The working documents used during the conciliation procedure will be accessible in the Register of each institution once the procedure has been concluded.
38. The Secretariat of the European Parliament and the General- Secretariat of the Council shall act jointly as the Conciliation Committee's secretariat, in association with the Secretariat-General of the Commission.

#### GENERAL PROVISIONS

39. Should the European Parliament or the Council deem it essential to extend the time-limits referred to in Article 251 of the Treaty, they shall notify the President of the other institution and the Commission accordingly.
40. Where an agreement is reached at first or second reading, or during conciliation, the agreed text shall be finalised by the legal-linguistic services of the European Parliament and of the Council acting in close cooperation and by mutual agreement.
41. No changes shall be made to any agreed texts without the explicit agreement, at the appropriate level, of both the European Parliament and the Council.
42. Finalisation shall be carried out with due regard to the different procedures of the European Parliament and the Council, in particular with respect to deadlines for conclusion of internal procedures. The institutions undertake not to use the time-limits laid down for the legal-linguistic finalisation of acts to reopen discussions on substantive issues.
43. The European Parliament and the Council shall agree on a common presentation of the texts prepared jointly by those institutions.
44. As far as possible, the institutions undertake to use mutually acceptable standard clauses to be incorporated in the acts adopted under codecision in particular as regards provisions concerning the exercise of implementing powers (in accordance with the 'comitology' decision <sup>(1)</sup>), entry into force, transposition and the application of acts and respect for the Commission's right of initiative.
45. The institutions will endeavour to hold a joint press conference to announce the successful outcome of the legislative process at first or second reading or during conciliation. They will also endeavour to issue joint press releases.
46. Following adoption of a legislative act under the codecision procedure by the European Parliament and the Council, the text shall be submitted, for signature, to the President of the European Parliament and the President of the Council and to the Secretaries-General of those institutions.
47. The Presidents of the European Parliament and the Council shall receive the text for signature in their respective languages and shall, as far as possible, sign the text together at a joint ceremony to be organised on a monthly basis with a view to signing important acts in the presence of the media.

<sup>(1)</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23). Decision as amended by Decision 2006/512/EC (OJ L 200, 27.7.2006, p. 11).

48. The jointly signed text shall be forwarded for publication in the Official Journal of the European Union. Publication shall normally follow within two months of the adoption of the legislative act by the European Parliament and the Council.
49. If one of the institutions identifies a clerical or obvious error in a text (or in one of the language versions thereof), it shall immediately notify the other institutions. If the error concerns an act that has not yet been adopted by either the European Parliament or the Council, the legal-linguistic services of the European Parliament and the Council shall prepare the necessary corrigendum in close cooperation. Where this error concerns an act that has already been adopted by one or both of those institutions, whether published or not, the European Parliament and the Council shall adopt, by common agreement, a corrigendum drawn up under their respective procedures.

Done at Brussels, on the thirteenth day of June in the year two thousand and seven.

*For the European Parliament*  
*The President*



*For the Council of the European Union*  
*The President*



*For the Commission of the European Communities*  
*The President*



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## **Code of Conduct for negotiating in the context of the ordinary legislative procedure<sup>1</sup>**

### **1. Introduction**

This Code of Conduct provides guidance within Parliament on how to conduct negotiations during all stages of the ordinary legislative procedure, including at third reading, and should be read in conjunction with Rules 69b to 69f of the Rules of Procedure.

It is complementary to the relevant provisions of the Interinstitutional Agreement of 13 April 2016 on Better Law-making<sup>2</sup>, which concern the transparency and coordination of the legislative process, and to the Joint Declaration on practical arrangements for the codecision procedure<sup>3</sup> agreed between Parliament, the Council and the Commission on 13 June 2007.

### **2. General principles and preparation for negotiations**

Interinstitutional negotiations in the context of the ordinary legislative procedure shall be based on the principles of transparency, accountability and efficiency, in order to ensure that the decision-making process is reliable, traceable and open, both within Parliament and as regards the public.

As a general rule, Parliament should make use of all possibilities offered at all stages of the ordinary legislative procedure. The decision to enter into negotiations, particularly with a view to reaching an agreement at first reading, shall be considered on a case-by-case basis, taking account of the distinctive characteristics of each individual file.

The possibility of entering into negotiations with the Council shall be presented by the rapporteur to the full committee, which shall decide in accordance with the relevant Rule. The mandate shall be the committee legislative report or the amendments adopted in plenary for first reading negotiations, Parliament's position at first reading for early second or second reading negotiations, and Parliament's position at second reading for third reading negotiations.

Parliament shall be informed of, and shall scrutinise, decisions to enter into negotiations. In order to achieve the greatest degree of transparency in the legislative process, the Chair of the Conference of Committee Chairs shall keep the Conference of Presidents informed on a regular basis, by providing it with systematic and timely information about all committee decisions to enter into negotiations and about the progress of files under the ordinary legislative procedure. Any agreement reached during negotiations shall be deemed to be provisional until it has been adopted by Parliament.

For first, early second and second reading negotiations, the main body responsible for the conduct of negotiations shall be the committee responsible, represented by the negotiating team in accordance with Rule 69f. At third reading, Parliament shall be represented in negotiations by its delegation to the conciliation committee, which shall be presided over by one of the Vice-

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<sup>1</sup> As approved by the Conference of Presidents on 28 September 2017.

<sup>2</sup> OJ L 123, 12.5.2016, p. 1.

<sup>3</sup> OJ C 145, 30.6.2007, p. 5.

Presidents responsible for conciliation. Throughout the negotiations, the political balance shall be respected and all political groups shall be entitled to be represented at least at staff level.

This Code of Conduct shall apply *mutatis mutandis* where the conditions set out in Rule 54 on associated committee procedure or Rule 55 on joint committee procedure are met, particularly as regards the composition of the negotiating team and the conduct of the negotiations. The Chairs of the committees concerned should agree in advance the arrangements for their cooperation throughout the interinstitutional negotiations.

### **3. Conduct of negotiations and finalisation of the agreement**

As a matter of principle and in order to enhance transparency, Parliament shall provide the means necessary for the public to be well-informed throughout the legislative cycle, working in close cooperation with the other institutions, to facilitate the traceability of the legislative process. This shall include the joint announcement of successful outcomes of legislative procedures, including through joint press conferences, or any other means considered appropriate.

Negotiations in trilogues shall be based on one joint document (usually in the form of a multi-column document), indicating the position of the respective institutions with regard to each other's amendments and also including any provisionally agreed compromise texts. That joint document shall be a shared document between the institutions, and any version circulated for a trilogue should, in principle, be agreed by the co-legislators. After each trilogue, the Chair of the negotiating team and the rapporteur shall report back to the committee responsible or its coordinators on the progress of the negotiations.

When a provisional agreement is reached with the Council, the Chair of the negotiating team and the rapporteur shall fully inform the committee responsible of the outcome of the negotiations, which shall be published. The committee responsible shall receive the text of any provisional agreement reached for consideration in a presentation which clearly indicates the modifications to the draft legislative act. The committee responsible shall decide in accordance with Rule 69f.

The provisional agreement reached during the negotiations shall be confirmed in writing by means of an official letter. In the case of first and second reading agreements, the Chair of Coreper confirms the provisional agreement in writing to the Chair of the committee responsible, whereas for an early second reading agreement, the Chair of the committee responsible informs the Council that he or she will recommend to plenary that the Council's first reading position corresponding to the text of the provisional agreement be adopted without amendments at Parliament's second reading.<sup>1</sup>

There shall be sufficient time between the endorsement of the provisional agreement by the Committee and the vote in Parliament in order to allow political groups to prepare their final position.

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<sup>1</sup> See point 18 of the Joint Declaration on practical arrangements for the codecision procedure.

The provisional agreement shall be subject to legal-linguistic finalisation, in accordance with Rule 193. No changes shall be made to any provisional agreement without the explicit agreement, at the appropriate level, of both Parliament and the Council.

#### **4. Assistance to the negotiating team**

The negotiating team shall be provided with all the resources necessary for it to conduct its work properly. It shall be assisted by an 'administrative project team' coordinated by the secretariat of the committee responsible, and should include at least the Legislative Affairs Unit, the legal service, the directorate for legislative acts, Parliament's press service, as well as other relevant services to be decided on a case-by-case basis. Political group advisors shall be invited to meetings preparing or following up trilogue meetings. The Legislative Affairs Unit shall coordinate the provision of administrative assistance to Parliament's delegation to the conciliation committee.

## I

*(Information)*

EUROPEAN PARLIAMENT  
COUNCIL  
COMMISSION

## INTERINSTITUTIONAL AGREEMENT

of 28 November 2001

on a more structured use of the recasting technique for legal acts

(2002/C 77/01)

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas:

- (1) The European Council, meeting in Edinburgh in December 1992 underlined the importance for the Community of making Community legislation more accessible and comprehensible.
- (2) On 20 December 1994, following the guidelines drawn up by the European Council, the European Parliament, the Council and the Commission concluded an Interinstitutional Agreement on an accelerated working method for official codification of legislative texts <sup>(1)</sup> with a view to substantially improving the readability of legal acts which have been extensively amended.
- (3) Experience shows, however, that despite the use of the accelerated method, the Commission's submission of official codification proposals and the legislature's adoption of official codification acts are often delayed, in particular because new amendments to the legal act in question have been adopted in the meanwhile, which leads to the codification work having to start all over again.
- (4) It is therefore advisable, in particular with regard to frequently amended legal acts, to use a legislative technique which enables amendments to, and codification of, acts to be carried out within the framework of a single legislative text.
- (5) In that context, where a substantive amendment has to be made to an earlier legal act, the recasting technique permits the adoption of a single legislative text which simultaneously makes the desired amendment, codifies that amendment with the unchanged provisions of the earlier act, and repeals that act.
- (6) Consequently, in so far as it prevents the proliferation of isolated amending acts which often make regulations difficult to understand, the recasting technique is an appropriate means of ensuring the readability of Community legislation on a permanent and universal basis.
- (7) A more structured use of the recasting technique forms part of the measures undertaken by the institutions to make Community legislation more accessible, such as the adoption of the accelerated working method for official codification and the establishment of common guidelines for the quality of drafting of Community legislation through the Interinstitutional Agreement of 22 December 1998 <sup>(2)</sup>.
- (8) The European Council meeting in Helsinki in December 1999 wished an Interinstitutional Agreement on the use of the recasting technique to be concluded as quickly as possible by the European Parliament, the Council and the Commission,

HAVE AGREED AS FOLLOWS:

1. The aim of this Agreement is to lay down procedural rules enabling a more structured use to be made of the recasting technique pursuant to the Community's normal legislative process.

<sup>(1)</sup> OJ C 102, 4.4.1996, p. 2.

<sup>(2)</sup> OJ C 73, 17.3.1999, p. 1.

2. Recasting shall consist in the adoption of a new legal act which incorporates in a single text both the substantive amendments which it makes to an earlier act and the unchanged provisions of that act. The new legal act replaces and repeals the earlier act.

3. A proposal for recasting submitted by the Commission shall deal with the substantive amendments which it makes to an earlier act. On a secondary level, the proposal shall include the codification of the unchanged provisions of the earlier act with those substantive amendments.

4. For the purposes of this Agreement:

— 'earlier act' shall mean a legal act which is in force, and which may have been amended by one or more amending acts,

— 'substantive amendment' shall mean any amendment which affects the substance of the earlier act as opposed to purely formal or editorial changes,

— 'unchanged provision' shall mean any provision of the earlier act which, although it may be affected by purely formal or editorial changes, has not undergone any substantive amendment.

A new legal act shall not constitute a recast act if, with the exception of standardised provisions or wordings, it makes substantive amendments to all the provisions of the earlier act, which it replaces and repeals.

5. The Community's normal legislative process shall be complied with in full.

6. A proposal for recasting shall satisfy the following criteria:

(a) The explanatory memorandum accompanying the proposal shall:

(i) state expressly that it relates to a proposal for recasting and explain the reasons for adopting such an approach;

(ii) state the reasons for each proposed substantive amendment;

(iii) specify which provisions of the earlier act remain unchanged.

(b) The proposed legislative text shall be presented in a way which:

(i) enables the substantive amendments and new recitals to be clearly distinguished from the provisions and recitals which remain unchanged;

(ii) with regard to the provisions and recitals which remain unchanged, is similar to the method used for presenting proposals for the official codification of legislative acts.

7. To ensure clarity and legal certainty, all recasting acts shall comply *inter alia* <sup>(1)</sup> with the following rules of legislative drafting:

(a) The first recital shall indicate that the new legal act constitutes a recasting of the earlier act.

(b) The article repealing the earlier act shall provide that references to that act shall be regarded as references to the recasting act and should be read in accordance with a correlation table annexed to the recasting act.

(c) Moreover, in an act recasting a Directive:

(i) the repealing article shall provide that Member States' obligations arising from the transposition period <sup>(2)</sup> and, where appropriate, the implementation period as set out in the Directive repealed by the recasting act shall not be affected by such repeal;

(ii) the periods referred to in point (i) shall be set out in an annex in the form of a table;

(iii) the article relating to the obligation to transpose <sup>(3)</sup> into national law a recast Directive shall refer only to those provisions which have undergone substantive amendment and which have been precisely identified as such. Those provisions which remain unchanged in the recast Directive shall be transposed in accordance with the earlier Directives.

<sup>(1)</sup> See, in particular, the Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation (OJ C 73, 17.3.1999, p. 1).

<sup>(2)</sup> That is, the period laid down for implementing the laws, regulations and administrative provisions necessary for complying with the provisions of the Directive.

<sup>(3)</sup> That is, the obligation to implement the laws, regulations and administrative provisions necessary for complying with the provisions of the Directive.



8. Where, in the course of the legislative procedure, it appears necessary to introduce substantive amendments in the recasting act to those provisions which remain unchanged in the Commission's proposal, such amendments shall be made to that act in compliance with the procedure laid down by the Treaty according to the applicable legal basis.

9. A Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission shall examine the proposal for recasting. It shall deliver an opinion as soon as possible for submission to the European Parliament, the Council and the Commission to the effect that the proposal does not comprise any substantive amendments other than those identified as such.

10. This agreement shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

It shall apply to any proposal for recasting submitted from the date of its entry into force.

An assessment of the application of this Agreement shall take place three years after its entry into force. For this purpose the Legal Services of the institutions signatory to the Agreement shall submit an assessment report and propose, where appropriate, any changes required.

Done at Brussels on the twenty-eighth day of the year two thousand and one.

*For the European Parliament*  
The President



*For the Council*  
The President



*For the Commission*  
The President



## DECLARATIONS

### Joint Declaration on point 2

The European Parliament, the Council and the Commission note that recasting may be either 'vertical' (whereby the new legal act replaces a single earlier act) or 'horizontal' (whereby the new legal act replaces several parallel earlier acts relating to the same subject).

### Joint Declaration on point 4

The European Parliament, the Council and the Commission agree that, where an isolated amendment within a provision in fact amends the substance of that provision, such a provision shall be identified as having been amended in its entirety.

### Declaration of the European Parliament and the Council on point 6(b)

The European Parliament and the Council take note of the fact that the Commission provides for substantive amendments and any new recital to be identified by the use of 'shaded' type in any COM document which it submits.

### Joint Declaration on point 9

The European Parliament, the Council and the Commission note that, for the purpose of giving proper effect to this Agreement, their Legal Services should have access to the appropriate human resources so that they have a sufficient number of representatives within the Consultative Working Party to enable the proposals for recastings submitted by the Commission to be considered rapidly with a view to delivery of an opinion to the institutions as soon as possible.

- in the event of an unfavourable Opinion, taking due account of the European Parliament's point of view without delay, in order to seek a solution in the appropriate framework.

The act shall in any case be adopted by the deadlines laid down in the specific provisions of the basic act.

6. In the context of this *modus vivendi*, the Commission shall take account as far as possible of any comments by the European Parliament and shall keep it informed at every stage of the procedure of the action which it intends to take on them, so as to enable the Parliament to assume its own responsibilities in full knowledge of the facts.
7. This *modus vivendi* shall apply with effect from the date of its approval by the three institutions.

Done at Brussels on the twentieth day of December in the year one thousand nine hundred and ninety-four.

*For the Council  
of the European Union*

Klaus KINKEL

*For the  
European Parliament*

Nicole FONTAINE

*For the  
European Commission*

Jacques DELORS

## INTERINSTITUTIONAL AGREEMENT

of 20 December 1994

Accelerated working method for official codification of legislative texts

(96/C 102/02)

*(This text replaces and cancels the text published in OJ No C 293 of 8 November 1995)*

1. For the purpose of this working method, official codification means the procedure for repealing the acts to be codified and replacing them with a single act containing no substantive change to those acts.
2. Priority sectors for codification will be agreed by the three Institutions involved, on a proposal from the Commission. The Commission will include in its work programme the proposals for codification it intends to present.
3. The Commission undertakes not to introduce in its codification proposals any substantive changes to the acts to be codified.
4. The Consultative Working Party, consisting of the respective legal services of the European Parliament, the Council and the Commission, will examine such proposals upon adoption by the Commission. It will confirm at the earliest opportunity that they are indeed confined to straightforward codification without substantive changes.
5. The Community's normal legislative process will be complied with in full.
6. The purpose of the Commission proposal, namely the straightforward codification of existing texts, constitutes a legal limit, prohibiting any substantive change by the European Parliament or Council.
7. The Commission proposal will be studied in all its aspects under an accelerated procedure within the European Parliament (one committee to study the proposal and simplified procedure for its approval) and Council (examination by one working party and 'I/A items' procedure for Coreper-Council).

8. Should it prove necessary during the legislative process to go beyond straightforward codification and make substantive changes, it will be the Commission's responsibility to submit any proposal(s), where appropriate.

Done at Brussels on the twentieth day of December in the year one thousand nine hundred and ninety-four.

*For the Council  
of the European Union*

Klaus KINKEL

*For the  
European Parliament*

Nicole FONTAINE

*For the  
European Commission*

Jacques DELORS

### JOINT DECLARATIONS

#### **On paragraph 4 of the accelerated working method for official codification of legislative texts**

The European Parliament, the Council and the Commission agree that the Consultative Working Party will endeavour to give its opinion in time for it to be made available to the institutions before they begin their respective examinations of the proposal concerned.

#### **On paragraph 7 of the accelerated working method for official codification of legislative texts**

The European Parliament, the Council and the Commission state that the study of Commission proposals for official codification in all their aspects within the European Parliament and the Council will be conducted in such a way as to avoid calling into question the dual objectives of the method of codification, namely that it should be dealt with by a single body within the Institutions and by an almost automatic procedure.

In particular, the three Institutions agree that study of Commission proposals in all their aspects will not involve re-opening discussion on the substantive solutions accepted when the acts being codified were adopted.

#### **On paragraph 8 of the accelerated working method for official codification of legislative texts**

The European Parliament, the Council and the Commission note that if it should appear necessary to go beyond straightforward codification and make substantive changes, the Commission will be able to choose, case by case, whether to recast its proposal or whether to submit a separate proposal for amendment, leaving its codification proposal on the table, and then, once the substantive change has been adopted, incorporate it into the proposal for codification.

\*

\* \*

### EUROPEAN PARLIAMENT STATEMENT

#### **On paragraph 5 of the accelerated working method for official codification of legislative texts**

Parliament, for its part, considers that, particularly should there be any change either to the legal basis or to the procedure for adopting the text concerned, it must reserve its view as to whether codification is desirable, given the need to comply with the 'normal legislative process' within the meaning of paragraph 5 of this Agreement.

## I

*(Information)*EUROPEAN PARLIAMENT  
COUNCIL  
COMMISSION

## INTERINSTITUTIONAL AGREEMENT

of 22 December 1998

on common guidelines for the quality of drafting of Community legislation

(1999/C 73/01)

THE EUROPEAN PARLIAMENT, THE COUNCIL OF  
THE EUROPEAN UNION AND THE COMMISSION OF  
THE EUROPEAN COMMUNITIES,

each institution adopting the relevant measures for  
its own use;

Having regard to Declaration No 39 on the quality of  
the drafting of Community legislation adopted on 2  
October 1997 by the Intergovernmental Conference and  
annexed to the Final Act of the Treaty of Amsterdam,

(5) the role played by the institutions' legal services,  
including their legal/linguistic experts, in improving  
the quality of drafting of Community legislative acts  
should be strengthened;

Whereas:

(1) clear, simple and precise drafting of Community  
legislative acts is essential if they are to be trans-  
parent and readily understandable by the public and  
economic operators. It is also a prerequisite for the  
proper implementation and uniform application of  
Community legislation in the Member States;

(6) these guidelines complement the efforts being made  
by the institutions to make Community legislation  
more accessible and easier to understand,  
particularly by means of the official codification of  
legislative acts, recasting and simplification of  
existing texts;

(2) according to the case-law of the Court of Justice, the  
principle of legal certainty, which is part of the  
Community legal order, requires that Community  
legislation must be clear and precise and its  
application foreseeable by individuals. That  
requirement must be observed all the more strictly in  
the case of an act liable to have financial conse-  
quences and imposing obligations on individuals in  
order that those concerned may know precisely the  
extent of the obligations which it imposes on them;

(7) these guidelines are to be regarded as instruments for  
internal use by the institutions. They are not legally  
binding,

ADOPT THESE GUIDELINES BY COMMON ACCORD:

**General principles**

(3) guidelines on the quality of drafting of Community  
legislation should therefore be adopted by common  
accord. These guidelines are intended as a guide for  
the Community institutions when they adopt legis-  
lative acts, and for those in the Community insti-  
tutions who are involved in formulating and drafting  
such acts, whether at the stage of the initial text or  
that of the various amendments made to it in the  
course of the legislative procedure;

1. Community legislative acts shall be drafted clearly,  
simply and precisely.

(4) these guidelines should be accompanied by measures  
to make sure that they are applied properly, with

2. The drafting of Community acts shall be appropriate  
to the type of act concerned and, in particular, to  
whether or not it is binding (Regulation, Directive,  
Decision, recommendation or other act).

3. The drafting of acts shall take account of the  
persons to whom they are intended to apply, with a  
view to enabling them to identify their rights and  
obligations unambiguously, and of the persons  
responsible for putting the acts into effect.

4. Provisions of acts shall be concise and their content should be as homogeneous as possible. Overly long articles and sentences, unnecessarily convoluted wording and excessive use of abbreviations should be avoided.

5. Throughout the process leading to their adoption, draft acts shall be framed in terms and sentence structures which respect the multilingual nature of Community legislation; concepts or terminology specific to any one national legal system are to be used with care.

6. The terminology used in a given act shall be consistent both internally and with acts already in force, especially in the same field.

Identical concepts shall be expressed in the same terms, as far as possible without departing from their meaning in ordinary, legal or technical language.

#### Different parts of the act

7. All Community acts of general application shall be drafted according to a standard structure (title — preamble — enacting terms — annexes, where necessary).

8. The title of an act shall give as succinct and full an indication as possible of the subject matter which does not mislead the reader as to the content of the enacting terms. Where appropriate, the full title of the act may be followed by a short title.

9. The purpose of the citations is to set out the legal basis of the act and the main steps in the procedure leading to its adoption.

10. The purpose of the recitals is to set out concise reasons for the chief provisions of the enacting terms, without reproducing or paraphrasing them. They shall not contain normative provisions or political exhortations.

11. Each recital shall be numbered.

12. The enacting terms of a binding act shall not include provisions of a non-normative nature, such as wishes or political declarations, or those which repeat or paraphrase passages or articles from the Treaties or those which restate legal provisions already in force.

Acts shall not include provisions which enunciate the content of other articles or repeat the title of the act.

13. Where appropriate, an article shall be included at the beginning of the enacting terms to define the subject matter and scope of the act.

14. Where the terms used in the act are not unambiguous, they should be defined together in a single article at the beginning of the act. The definitions shall not contain autonomous normative provisions.

15. As far as possible, the enacting terms shall have a standard structure (subject matter and scope — definitions — rights and obligations — provisions conferring implementing powers — procedural provisions — implementing measures — transitional and final provisions).

The enacting terms shall be subdivided into articles and, depending on their length and complexity, titles, chapters and sections. When an article contains a list, each item on the list should be identified by a number or a letter rather than an indent.

#### Internal and external references

16. References to other acts should be kept to a minimum. References shall indicate precisely the act or provision to which they refer. Circular references (references to an act or an article which itself refers back to the initial provision) and serial references (references to a provision which itself refers to another provision) shall also be avoided.

17. A reference made in the enacting terms of a binding act to a non-binding act shall not have the effect of making the latter binding. Should the drafters wish to render binding the whole or part of the content of the non-binding act, its terms should as far as possible be set forth as part of the binding act.

#### Amending acts

18. Every amendment of an act shall be clearly expressed. Amendments shall take the form of a text to be inserted in the act to be amended. Preference shall be given to replacing whole provisions (articles or subdivisions of articles) rather than inserting or deleting individual sentences, phrases or words.

An amending act shall not contain autonomous substantive provisions which are not inserted in the act to be amended.

19. An act not primarily intended to amend another act may set out, at the end, amendments of other acts which are a consequence of changes which it introduces. Where the consequential amendments are substantial, a separate amending act should be adopted.

#### Final provisions, repeals and annexes

20. Provisions laying down dates, time limits, exceptions, derogations and extensions, transitional provisions (in particular those relating to the effects of the act on existing situations) and final provisions (entry into force, deadline for transposition and temporal application of the act) shall be drawn up in precise terms.

Provisions on deadlines for the transposition and application of acts shall specify a date expressed as day/month/year. In the case of Directives, those deadlines shall be expressed in such a way as to guarantee an adequate period for transposition.

21. Obsolete act and provisions shall be expressly repealed. The adoption of a new act should result in the express repeal of any act or provision rendered inapplicable or redundant by virtue of the new act.
22. Technical aspects of the act shall be contained in the annexes, to which individual reference shall be made in the enacting terms of the act and which shall not embody any new right or obligation not set forth in the enacting terms.

Annexes shall be drawn up in accordance with a standardised format,

#### HEREBY AGREE ON THE FOLLOWING IMPLEMENTING MEASURES:


The institutions shall take such measures relating to their internal organisation as they deem necessary in order to ensure that these guidelines are properly applied.

In particular, the institutions:


- (a) shall instruct their legal services to draw up, within one year after the publication of these guidelines, a joint practical guide for persons involved in the drafting of legislation;
- (b) shall organise their respective internal procedures in such a way that their legal services, including their legal/linguistic experts, may, each for their own institution, make drafting suggestions in good time, with a view to applying these guidelines;
- (c) shall foster the creation of drafting units within those bodies or departments within the institutions which are involved in the legislative process;
- (d) shall ensure that their officials and other servants receive training in legal drafting, making them aware in particular of the effects of multilingualism on drafting quality;
- (e) shall promote cooperation with the Member States with a view to improving understanding of the particular considerations to be taken into account when drafting texts;
- (f) shall encourage the development and improvement of information technology tools for assisting legal drafting;
- (g) shall foster collaboration between their respective departments responsible for ensuring the quality of drafting;
- (h) shall instruct their respective legal services to draw up periodically, each for the institution to which it belongs, a report on the measures taken in pursuance of points (a) to (g).

Done at Brussels, 22 December 1998.

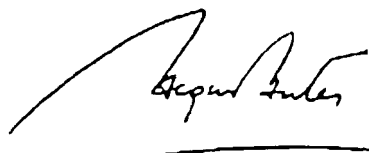
*For the  
European Parliament  
The President*



*For the Council  
of the European Union  
The President*



*For the Commission  
of the European Communities  
The President*



### Declaration by the European Parliament

The European Parliament considers that Community legislative acts must be self-explanatory and that the institutions and/or Member States must not adopt explanatory statements.

No provision is made for the adoption of explanatory statements in the Treaties and it is incompatible with the nature of Community law.

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### Council Statements

Like the European Parliament, the Council is of the opinion that legislative acts should be comprehensible in themselves. Recourse to statements interpreting legal acts should therefore be avoided where possible and the content of possible statements should, as appropriate, be included in the text of the act.

It should however be noted that insofar as they do not contradict the legislative act concerned and they are made public (as provided for in Article 151(3) of the EC Treaty as it will be amended by the Amsterdam Treaty), such interpretative statements adopted by the Community legislator are compatible with Community law.

The Council finds it desirable that the general principles of good drafting which may be drawn from the 'Common guidelines on the quality of drafting of Community legislation' serve, where appropriate, as an inspiration for the drafting of acts adopted pursuant to Titles V and VI and of the Treaty on European Union.

The Council considers that, in order that the transparency of the Community decision-making process may be improved, it would be desirable for the Commission to provide in future for the statements of reasons accompanying its legislative proposals to be widely circulated to the public by the most appropriate means (for example, publication in the 'C' series of the *Official Journal of the European Communities*, electronic distribution, or other).

The Council takes the view that, in addition to the adoption by the legislator of official codification of legislative acts, the Office for Official Publications of the European Communities should, with a view to improving access to Community legislation when the latter has been subject to frequent or substantial amendments, intensify its work of informally consolidating legislative acts and should improve the advertising of the availability of these texts. It would also be useful to examine with the other institutions the appropriateness of possible measures aimed at facilitating a more structured use of the recasting technique which combines the codification and the modifications of an act in a single legislative text.

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## II

(Information)

## INTERINSTITUTIONAL AGREEMENTS

EUROPEAN PARLIAMENT  
COUNCIL  
EUROPEAN COMMISSION

## INTERINSTITUTIONAL AGREEMENT

of 2 December 2013

**between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management**

(2013/C 373/01)

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION,

hereinafter referred to as the 'institutions',

HAVE AGREED AS FOLLOWS:

1. The purpose of this Agreement, adopted in accordance with Article 295 of the Treaty on the Functioning of the European Union (TFEU), is to implement budgetary discipline and improve the functioning of the annual budgetary procedure and cooperation between the institutions on budgetary matters as well as to ensure sound financial management.
2. Budgetary discipline in this Agreement covers all expenditure. The Agreement is binding on all the institutions for as long as it is in force.
3. This Agreement does not alter the respective budgetary powers of the institutions as laid down in the Treaties, in Council Regulation (EU, Euratom) No 1311/2013 <sup>(1)</sup> (the 'MFF Regulation') and in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(2)</sup> (the 'Financial Regulation').

4. Any amendment of this Agreement requires the common agreement of all the institutions.

5. This Agreement is in three parts:

- Part I contains complementary provisions related to the multiannual financial framework (MFF) and provisions on special instruments not included in the MFF.
- Part II relates to interinstitutional cooperation during the budgetary procedure.
- Part III contains provisions related to the sound financial management of Union funds.

6. This Agreement enters into force on 23 December 2013 and replaces the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(3)</sup>.

## PART I

## MFF AND SPECIAL INSTRUMENTS

## A. Provisions related to the MFF

7. Information relating to operations not included in the general budget of the Union and to the foreseeable development of the various categories of the Union's own

<sup>(1)</sup> Council Regulation (EU, Euratom) No 1311/2013 of 20 December 2013 laying down the Multiannual Financial Framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

<sup>(2)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>(3)</sup> OJ C 139, 14.6.2006, p. 1.



resources is set out, by way of indication, in separate tables. That information shall be updated annually together with the documents accompanying the draft budget.

8. The institutions shall, for the purposes of sound financial management, ensure as far as possible during the budgetary procedure and at the time of the budget's adoption that sufficient margins are left available beneath the ceilings for the various headings of the MFF, except in the sub-heading 'Economic, social and territorial cohesion'.

#### *Updating of forecasts for payment appropriations after 2020*

9. In 2017, the Commission shall update the forecasts for payment appropriations after 2020. That update shall take into account all relevant information, including the real implementation of budget appropriations for commitments and budget appropriations for payments, as well as the implementation forecasts. It shall also consider the rules designed to ensure that payment appropriations develop in an orderly manner compared to commitment appropriations and the growth forecasts of the Union's Gross National Income.

### **B. Provisions related to the special instruments not included in the MFF**

#### *Emergency Aid Reserve*

10. When the Commission considers that the Emergency Aid Reserve needs to be called on, it shall present to the European Parliament and the Council a proposal for a transfer from the Reserve to the corresponding budgetary lines.

Any Commission proposal for a transfer from the Reserve, however, shall be preceded by an examination of the scope for reallocating appropriations.

In the event of disagreement, a trilogue procedure shall be initiated.

Transfers from the Reserve shall be made in accordance with the Financial Regulation.

#### *European Union Solidarity Fund*

11. When the conditions for mobilising the European Union Solidarity Fund as set out in the relevant basic act are met, the Commission shall make a proposal to mobilise it. Where there is scope for reallocating appropriations under the heading requiring additional expenditure, the Commission shall take that into account when making the necessary proposal, in accordance with the Financial Regulation, by means of the appropriate budgetary instrument. The decision to mobilise the Solidarity Fund shall be taken jointly by the European Parliament and the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

In the event of disagreement, a trilogue procedure shall be initiated.

#### *Flexibility Instrument*

12. The Commission shall make a proposal for the Flexibility Instrument to be mobilised after it has examined all possibilities for re-allocating appropriations under the heading requiring additional expenditure.

The proposal shall identify the needs to be covered and the amount. It may be presented, for any given financial year, during the budgetary procedure.

The decision to mobilise the Flexibility Instrument shall be taken jointly by the European Parliament and the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

Agreement shall be reached in the framework of the annual budgetary procedure.

#### *European Globalisation Adjustment Fund*

13. When the conditions for mobilising the European Globalisation Adjustment Fund, as set out in the relevant basic act, are met, the Commission shall make a proposal to mobilise it. The decision to mobilise the Globalisation Adjustment Fund shall be taken jointly by the European Parliament and the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

At the same time as it presents its proposal for a decision to mobilise the Globalisation Adjustment Fund, the Commission shall present to the European Parliament and the Council a proposal for a transfer to the relevant budgetary lines.

In the event of disagreement, a trilogue procedure shall be initiated.

Transfers related to the Globalisation Adjustment Fund shall be made in accordance with the Financial Regulation.

#### *Contingency Margin*

14. The mobilisation of the Contingency Margin, or part thereof, shall be proposed by the Commission after a thorough analysis of all other financial possibilities. Such a proposal may only be made in relation to a draft amending or annual budget, for the adoption of which such a proposal would be necessary. The Commission shall accompany the proposal for the mobilisation of the Contingency Margin with a proposal for the reallocation, within the existing budget, of a significant amount, as far as supported by the Commission's analysis.

The decision to mobilise the Contingency Margin shall be taken jointly by the European Parliament and the Council simultaneously with their approval of the amending budget or general budget of the Union the adoption of which the Contingency Margin facilitates. The European Parliament and the Council shall act in accordance with the voting rules provided for in Article 314 TFEU for the approval of the general budget of the Union.

## PART II

### IMPROVEMENT OF INTERINSTITUTIONAL COOPERATION IN BUDGETARY MATTERS

#### A. Interinstitutional cooperation procedure

15. The details of interinstitutional cooperation during the budgetary procedure are set out in the Annex.

##### *Budgetary Transparency*

16. The Commission shall prepare an annual report to accompany the general budget of the Union, bringing together available and non-confidential information relating to:

- the assets and liabilities of the Union, including those arising from borrowing and lending operations carried out by the Union in accordance with its powers under the Treaties,
- the revenue, expenditure, assets and liabilities of the European Development Fund (EDF), the European Financial Stability Facility (EFSF), the European Stability Mechanism (ESM), and other possible future mechanisms, including trust funds,
- the expenditure incurred by Member States in the framework of enhanced cooperation, to the extent that it is not included in the general budget of the Union.

#### B. Incorporation of financial provisions in legislative acts

17. Each legislative act, concerning a multiannual programme, adopted under the ordinary legislative procedure shall contain a provision in which the legislator lays down the financial envelope for the programme.

That amount shall constitute the prime reference amount for the European Parliament and the Council during the annual budgetary procedure.

The European Parliament and the Council, and the Commission when it draws up the draft budget, undertake not to depart by more than 10 % from that amount for the entire duration of the programme concerned, unless new, objective, long-term circumstances arise for which explicit and precise reasons are given, with account being taken of the results obtained from implementing the programme, in particular on the basis of assessments. Any increase resulting from such variation

shall remain beneath the existing ceiling for the heading concerned, without prejudice to the use of instruments mentioned in the MFF Regulation and in this Agreement.

This Point applies neither to appropriations for cohesion adopted under the ordinary legislative procedure and pre-allocated by Member States, which contain a financial envelope for the entire duration of the programme nor to the large scale projects referred to in Article 16 of the MFF Regulation.

18. Legislative acts, concerning multiannual programmes, not subject to the ordinary legislative procedure shall not contain an 'amount deemed necessary'.

Should the Council wish to include a financial reference amount, that amount shall be taken as illustrating the will of the legislator and shall not affect the budgetary powers of the European Parliament and the Council as set out in the TFEU. A provision to this effect shall be included in all legislative acts which contain such a financial reference amount.

If the financial reference amount concerned has been the subject of an agreement pursuant to the conciliation procedure provided for in the Joint Declaration of the European Parliament, the Council and the Commission of 4 March 1975 <sup>(1)</sup>, it shall be considered a reference amount within the meaning of Point 17 of this Agreement.

#### C. Expenditure relating to fisheries agreements

19. Expenditure on fisheries agreements shall be subject to the following specific rules.

The Commission undertakes to keep the European Parliament regularly informed about the preparation and conduct of the negotiations, including their budgetary implications.

In the course of the legislative procedure relating to fisheries agreements, the institutions undertake to make every effort to ensure that all procedures are carried out as quickly as possible.

Amounts provided for in the budget for new fisheries agreements or for the renewal of fisheries agreements which come into force after January 1 of the related financial year shall be put in reserve.

If appropriations relating to fisheries agreements (including the reserve) prove insufficient, the Commission shall provide the European Parliament and the Council with the necessary information for an exchange of views in the form of a trilogue, possibly in a simplified form, on the causes of the situation, and on measures which might be adopted under established procedures. Where necessary, the Commission shall propose appropriate measures.

<sup>(1)</sup> OJ C 89, 22.4.1975, p. 1.

Each quarter, the Commission shall present to the European Parliament and the Council detailed information about the implementation of fisheries agreements in force and a financial forecast for the remainder of the year.

20. Representatives of the European Parliament may take part, with observer status, in bilateral and multilateral conferences negotiating international fisheries agreements, taking account of the European Parliament's powers in the field of fisheries agreements and in accordance with points 25 and 26 of the Framework Agreement on relations between the European Parliament and the European Commission <sup>(1)</sup>.
21. Without prejudice to the relevant procedure governing the negotiation of fisheries agreements, the European Parliament and the Council commit themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the adequate financing of fisheries agreements.

#### **D. Expenditure relating to the reserve for crises in the agricultural sector**

22. Appropriations for the Reserve for crises in the agricultural sector provided for in Article 25 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council <sup>(2)</sup> shall be entered directly in the general budget of the Union. Any amount of the Reserve not made available for crisis measures shall be reimbursed to direct payments.

Expenditure related to measures for crises occurring between 16 October and the end of the financial year may be financed from the reserve of the following financial year in accordance with the requirements laid down in the third paragraph.

If the Commission considers that the Reserve needs to be called on, in accordance with the relevant legislative act, it shall present to the European Parliament and to the Council a proposal for a transfer from the Reserve to the budget lines financing the measures it considers necessary. Any Commission proposal for a transfer from the Reserve shall be preceded by an examination of the scope for real-locating appropriations.

Transfers from the Reserve shall be made in accordance with the Financial Regulation.

In the event of disagreement, a trilogue procedure shall be initiated.

#### **E. Financing of the common foreign and security policy (CFSP)**

23. The total amount of CFSP operating expenditure shall be entered entirely in one budget chapter, entitled CFSP. That amount shall cover the real predictable needs, assessed in the framework of the establishment of the draft budget, on

the basis of forecasts drawn up annually by the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative'), and a reasonable margin for unforeseen actions. No funds may be entered in a reserve.

24. As regards CFSP expenditure which is charged to the general budget of the Union in accordance with Article 41 of the Treaty on European Union, the institutions shall endeavour, in the Conciliation Committee, and on the basis of the draft budget established by the Commission, to secure agreement each year on the amount of the operating expenditure to be charged to the general budget of the Union, and on the distribution of that amount between the articles of the CFSP budget chapter suggested in the fourth paragraph of this Point. In the absence of agreement, it is understood that the European Parliament and the Council shall enter in the budget the amount contained in the previous budget or the amount proposed in the draft budget, whichever is the lower.

The total amount of CFSP operating expenditure shall be distributed between the articles of the CFSP budget chapter as suggested in the fourth paragraph. Each article shall cover instruments already adopted, instruments which are foreseen but not yet adopted and all other future — that is unforeseen — instruments to be adopted by the Council during the financial year concerned.

Since, under the Financial Regulation, the Commission has the authority to transfer appropriations autonomously between articles within the CFSP budget chapter, the flexibility deemed necessary for speedy implementation of CFSP actions shall accordingly be assured. In the event of the amount of the CFSP budget chapter during the financial year being insufficient to cover the necessary expenses, the European Parliament and the Council shall seek a solution as a matter of urgency, on a proposal from the Commission, taking into account Article 3 of the MFF Regulation and Point 10 of this Agreement.

Within the CFSP budget chapter, the articles into which the CFSP actions are to be entered could read along the following lines:

- single major missions as referred to in Article 49(1)(g) of the Financial Regulation,
- crisis management operations, conflict prevention, resolution and stabilisation, and monitoring and implementation of peace and security processes,
- non-proliferation and disarmament,
- emergency measures,
- preparatory and follow-up measures,
- European Union Special Representatives.

<sup>(1)</sup> OJ L 304, 20.11.2010, p. 47.

<sup>(2)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the Common Agricultural Policy (OJ L 347, 20.12.2013, p. 549).

25. Each year, the High Representative shall consult the European Parliament on a forward-looking document, which shall be transmitted by June 15 of the year in question, setting out the main aspects and basic choices of the CFSP, including the financial implications for the general budget of the Union, an evaluation of the measures launched in the year n-1 and an assessment of the coordination and complementarity of CFSP with the Union's other external financial instruments. Furthermore, the High Representative shall keep the European Parliament regularly informed by holding joint consultation meetings at least five times a year, in the framework of the regular political dialogue on the CFSP, to be agreed at the latest in the Conciliation Committee. Participation in those meetings shall be determined by the European Parliament and the Council respectively, bearing in mind the objective, and the nature of the information exchanged in those meetings.

The Commission shall be invited to participate in those meetings.

If the Council adopts a decision in the field of the CFSP entailing expenditure, the High Representative shall immediately, and in any event no later than five working days thereafter, send the European Parliament an estimate of the costs envisaged (a 'financial statement'), in particular those costs regarding time-frame, staff employed, use of premises and other infrastructure, transport facilities, training requirements and security arrangements.

Once a quarter, the Commission shall inform the European Parliament and the Council about the implementation of CFSP actions and the financial forecasts for the remainder of the financial year.

#### **F. Involvement of the institutions as regards development policy issues and the European Development Fund**

26. The Commission shall establish an informal dialogue with the European Parliament on development policy issues regardless of their source of financing. The scrutiny of the European Parliament of the European Development Fund (EDF) will be aligned on a voluntary basis to the scrutiny rights that exist under the general budget of the Union, specifically in relation to the Development Cooperation Instrument, pursuant to detailed arrangements to be fixed in the informal dialogue.

The European Parliament and the Council note that the Commission, with a view to, *inter alia*, enhancing the democratic scrutiny of development policy, intends to propose the budgetisation of the EDF as of 2021.

#### **G. Cooperation of the institutions in the budgetary procedure on administrative expenditure**

27. The savings implied by the ceiling for heading 5 as set out in the Annex to the MFF Regulation, shall be proportionately shared between all institutions as well as other Union bodies based on their respective share of the administrative budgets.

Each institution, body or agency is expected to present estimates of expenditure in the annual budgetary procedure consistent with the orientations referred to in the first paragraph.

To neutralise the additional capacity built up by the increase of working time to 40 hours per week, the European Parliament, the Council and the Commission agree to progressively render 5 % of the staff as in the establishment plan on 1 January 2013 <sup>(1)</sup>. This reduction should apply to all institutions, bodies and agencies, and be effected between 2013 and 2017. This does not prejudice the budgetary rights of the European Parliament and the Council.

### **PART III**

#### **SOUND FINANCIAL MANAGEMENT OF UNION FUNDS**

##### **A. Joint management**

28. The Commission shall ensure that the European Parliament, the Council and the Court of Auditors, at their request, receive any information and documentation related to Union funds spent through international organisations, obtained under the verification agreements concluded with those organisations, which are considered necessary for the exercise of the competences of the European Parliament, the Council or the Court of Auditors under the TFEU.

##### *Evaluation report*

29. In the evaluation report provided for by Article 318 TFEU, the Commission shall distinguish between internal policies, focused on the Europe 2020 strategy, and the external policies and shall use more performance information, including performance audit results, to evaluate the finances of the Union based on the results achieved.

##### *Financial programming*

30. The Commission shall submit twice a year, the first time in April or May (together with the documents accompanying the draft budget) and the second time in December or January (after the adoption of the general budget of the Union), a complete financial programming for headings 1 (except the sub-heading for 'Economic, social and territorial cohesion'), 2 (for 'environment' and 'fisheries' only), 3 and 4 of the MFF. That programming, structured by heading, policy area and budget line, should identify:

- (a) the legislation in force, with a distinction being drawn between multiannual programmes and annual actions:
  - for multiannual programmes, the Commission should indicate the procedure under which they were adopted (ordinary or special legislative procedure), their duration, the total financial envelope and the share allocated to administrative expenditure,

<sup>(1)</sup> The Council and the Commission have already implemented a first reduction of 1 % of staff as in their establishment plan on 1 January 2013.



- for annual actions (relating to pilot projects, preparatory actions and agencies) and actions financed under the prerogatives of the Commission, the Commission should provide multiannual estimates and indicate the margins left under the authorised ceilings fixed in Commission Delegated Regulation (EU) No 1268/2012 <sup>(1)</sup>;

- (b) pending legislative proposals: ongoing Commission proposals, with the latest update.

The Commission should consider ways of cross-referencing the financial programming with its legislative programming to provide more precise and reliable forecasts. For each legislative proposal, the Commission should indicate whether it is included in the April programme or in the December programme. The European Parliament and the Council should in particular be informed of:

- (a) all new legislative acts adopted and all pending proposals presented but not included in the April or the December programme (with the corresponding amounts);
- (b) legislation foreseen in the Commission's annual legislative work programme, with an indication of whether the actions are likely to have a financial impact.

Whenever necessary, the Commission should indicate the reprogramming entailed by new legislative proposals.

#### B. Agencies and European schools

31. Before presenting a proposal for the creation of a new agency, the Commission should produce a sound, complete and objective impact assessment, taking into account, *inter alia*, the critical mass of staff and competencies, cost-benefit aspects, subsidiarity and proportionality, the impact on national and Union activities, and the budgetary implications for the expenditure heading concerned. On the basis of that information and without prejudice to the legislative procedures governing the setting up of the agency, the European Parliament and the Council commit themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the financing of the proposed agency.

The following procedural steps shall be applied:

- firstly, the Commission shall systematically present any proposal for setting up a new agency to the first

trilogue following the adoption of its proposal, and shall present the financial statement accompanying the draft legal act proposing the creation of the agency and shall illustrate the consequences thereof for the remaining period of the financial programming,

- secondly, during the legislative process, the Commission shall assist the legislator in assessing the financial consequences of the amendments proposed. Those financial consequences should be considered during the relevant legislative trilogues,
- thirdly, before the conclusion of the legislative process, the Commission shall present an updated financial statement taking into account potential modifications by the legislator; this final financial statement shall be placed on the agenda of the final legislative trilogue and formally endorsed by the legislator. It shall also be placed on the agenda of a subsequent budgetary trilogue (in urgent cases, in simplified form), in view of reaching an agreement on the financing,
- fourthly, the agreement reached during a trilogue, taking into account the Commission's budgetary assessment with regard to the content of the legislative process, shall be confirmed in a joint declaration. That agreement shall be subject to approval by the European Parliament and the Council, each in accordance with its own rules of procedure.

The same procedure would be applied to any amendment to a legal act concerning an agency which would have an impact on the resources of the agency in question.

Should the tasks of an agency be modified substantially without an amendment to the legal act setting up the agency in question, the Commission shall inform the European Parliament and the Council by means of a revised financial statement, so as to allow the European Parliament and the Council to arrive at a timely agreement on the financing of the agency.

<sup>(1)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

32. Relevant provisions from the Common Approach annexed to the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies signed on 19 July 2012 should be duly taken into account in the budgetary procedure.

33. When the creation of a new European school is envisaged by the Board of Governors, a similar procedure is to be applied, *mutatis mutandis*, for its budgetary implications on the general budget of the Union.

Done at Brussels, 9 December 2013.

*For the Council*  
*The President*  
J. BERNATONIS

*For the Commission*  
J. LEWANDOWSKI  
*Member of the Commission*

Done at Strasbourg, 10 December 2013.

*For the European Parliament*  
*The President*  
M. SCHULZ

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## ANNEX

**Interinstitutional cooperation during the budgetary procedure****Part A. Calendar of the budgetary procedure**

1. The institutions shall agree a pragmatic calendar each year in due time before the start of the budgetary procedure on the basis of present practice.

**Part B. Priorities for the budgetary procedure**

2. In due time before the adoption of the draft budget by the Commission, a trilogue shall be convened to discuss the possible priorities for the budget of the coming financial year.

**Part C. Establishment of the draft budget and updating of estimates**

3. The institutions, other than the Commission, are invited to adopt their statement of estimates before the end of March.
4. The Commission shall, each year, present a draft budget showing the Union's actual financing requirements.

It shall take into account:

- (a) forecasts provided by the Member States in relation to the Structural Funds;
  - (b) the capacity for utilising appropriations, while endeavouring to maintain a strict relationship between appropriations for commitments and appropriations for payments;
  - (c) possibilities for starting up new policies through pilot projects, new preparatory actions or both, or for continuing multiannual actions which are coming to an end, after assessing whether it is possible to secure a basic act, within the meaning of the Financial Regulation (definition of a basic act, necessity of a basic act for implementation and exceptions);
  - (d) the need to ensure that any change in expenditure in relation to the previous year is in accordance with the constraints of budgetary discipline.
5. The institutions shall, as far as possible, avoid entering items in the budget involving insignificant amounts of expenditure on operations.
  6. The European Parliament and the Council also undertake to bear in mind the assessment of the possibilities for implementing the budget made by the Commission in its drafts and in connection with the implementation of the current budget.
  7. In the interests of sound financial management and owing to the effect of major changes in the titles and chapters of the budget nomenclature on the management reporting responsibilities of Commission departments, the European Parliament and the Council undertake to discuss any major changes with the Commission during the conciliation.
  8. In the interest of loyal and sound institutional cooperation, the European Parliament and the Council commit to maintaining regular and active contacts at all levels, through their respective negotiators, throughout the whole budgetary procedure and, in particular, during the conciliation period. The European Parliament and the Council undertake to ensure the timely and constant mutual exchange of relevant information and documents at both formal and informal levels, as well as to hold technical or informal meetings as needed, during the conciliation period, in cooperation with the Commission. The Commission shall ensure timely and equal access to information and documents for the European Parliament and the Council.
  9. Until such time as the Conciliation Committee is convened, the Commission may, if necessary, amend the draft budget in accordance with Article 314(2) TFEU, including by an amending letter updating expenditure estimates for agriculture. The Commission shall submit information on updates to the European Parliament and the Council for their consideration as soon as it is available. It shall supply the European Parliament and the Council with all the duly justified reasons they may require.

**Part D. Budgetary procedure before the conciliation procedure**

10. A trilogue shall be convened in good time before the Council's reading, to allow the institutions to have an exchange of views on the draft budget.
11. In order for the Commission to be able to assess in due time the implementability of amendments, envisaged by the European Parliament and the Council, which create new preparatory actions or pilot projects or which prolong existing ones, the European Parliament and the Council shall inform the Commission of their intentions in this regard, so that a first discussion may already take place at that trilogue.
12. A trilogue could be convened before the votes in plenary of the European Parliament.

Part E. **Conciliation procedure**

13. If the European Parliament adopts amendments to the Council's position, the President of the Council shall, during the same plenary sitting, take note of the differences in the position of the two institutions and give his/her agreement for the President of the European Parliament to convene the Conciliation Committee immediately. The letter convening the Conciliation Committee shall be sent at the latest on the first working day of the week following the end of the parliamentary part-session during which the plenary vote was delivered, and the conciliation period shall start on the following day. The 21-day time period shall be calculated in accordance with Regulation (EEC, Euratom) No 1182/71 of the Council <sup>(1)</sup>.
14. If the Council cannot agree on all the amendments adopted by the European Parliament, it should confirm its position by letter sent before the first meeting foreseen during the conciliation period. In such case, the Conciliation Committee shall proceed in accordance with the conditions laid down in the following points.
15. The Conciliation Committee shall be chaired jointly by representatives of the European Parliament and of the Council. Meetings of the Conciliation Committee shall be chaired by the co-chair from the institution hosting the meeting. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting and define its mandate for the negotiations. The European Parliament and the Council shall be represented at an appropriate level in the Conciliation Committee, such that each delegation can commit politically its respective institution, and that actual progress towards the final agreement may be made.
16. In accordance with the second subparagraph of Article 314(5) TFEU, the Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.
17. Trilogues shall take place throughout the conciliation procedure, at different levels of representation, with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee.
18. Meetings of the Conciliation Committee and trilogues shall be held alternately at the premises of the European Parliament and of the Council, with a view to an equal sharing of facilities, including interpretation facilities.
19. The dates of the meetings of the Conciliation Committee and the trilogues shall be set in advance by agreement of the three institutions.
20. A common set of documents ('input documents') comparing the various steps of the budgetary procedure shall be made available to the Conciliation Committee <sup>(2)</sup>. Those documents shall include 'line by line' figures, totals by MFF headings and a consolidated document with figures and remarks for all budget lines deemed technically 'open'. Without prejudice to the final decision of the Conciliation Committee, a specific document shall list all budget lines deemed technically closed <sup>(3)</sup>. Those documents shall be classified by budgetary nomenclature.

Other documents shall also be attached to the input documents for the Conciliation Committee, including a letter of executability from the Commission on the Council's position and the European Parliament's amendments, and any letter(s) from other institutions concerning the Council's position or the European Parliament's amendments.

21. With a view to reaching agreement by the end of the conciliation period, trilogues shall:
  - define the scope of the negotiations on the budgetary issues to be addressed,
  - endorse the list of the budget lines deemed technically closed, subject to the final agreement on the entire budget of the financial year,
  - discuss issues identified under the first indent with a view to reaching possible agreements to be endorsed by the Conciliation Committee,
  - address thematic issues, including by headings of the MFF.

Tentative conclusions shall be drawn jointly during or immediately after each trilogue, and, simultaneously, the agenda of the following meeting shall be agreed. Those conclusions shall be registered by the institution hosting the trilogue and shall be deemed provisionally approved after 24 hours, without prejudice to the final decision of the Conciliation Committee.

22. The conclusions of trilogues and a document for possible endorsement shall be available to the Conciliation Committee at its meetings, together with the budget lines in respect of which an agreement has been tentatively reached during the trilogues.

<sup>(1)</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

<sup>(2)</sup> The various steps include: the budget of the current financial year (including adopted amending budgets); the initial draft budget; the Council's position on the draft budget; the European Parliament's amendments to the Council's position and the letters of amendment presented by the Commission (if not yet fully approved by all institutions).

<sup>(3)</sup> A budget line deemed technically closed is a line for which there is no disagreement between the European Parliament and the Council, and for which no letter of amendment has been presented.



23. The joint text provided for in Article 314(5) TFEU shall be established by the secretariats of the European Parliament and of the Council with the assistance of the Commission. It shall consist of a letter of transmission addressed by the chairs of the two delegations to the Presidents of the European Parliament and Council, containing the date of the agreement at the Conciliation Committee, and annexes which shall include:

- line by line figures for all budget items and summary figures by MFF headings,
- a consolidated document, indicating the figures and final text of all lines that have been modified during the conciliation procedure,
- the list of the lines not modified with regard to the draft budget or the Council's position on it.

The Conciliation Committee may also approve conclusions and possible joint statements in relation to the budget.

24. The joint text shall be translated into the official languages of the institutions of the Union (by the services of the European Parliament) and shall be submitted for the approval of the European Parliament and the Council within a period of 14 days from the date of the agreement on the joint text pursuant to point 23.

The budget shall be subject to legal-linguistic finalisation after the adoption of the joint text by integrating the annexes of the joint text with the budget lines not modified during the conciliation procedure.

25. The institution hosting the meeting (trilogue or conciliation) shall provide interpretation facilities with a full linguistic regime applicable to the Conciliation Committee meetings and an ad hoc linguistic regime for the trilogues.

The institution hosting the meeting shall provide for the copying and distribution of room documents.

The services of the three institutions shall cooperate in the encoding of the results of the negotiations in order to finalise the joint text.

#### Part F. **Amending budgets**

##### *General principles*

26. Bearing in mind that amending budgets are frequently focused on specific and sometimes urgent issues, the institutions agree on the following principles to ensure appropriate interinstitutional cooperation for a smooth and swift decision-making process for amending budgets while avoiding, as far as possible, having to convene a conciliation meeting for amending budgets.

27. As far as possible, the institutions shall endeavour to limit the number of amending budgets.

##### *Calendar*

28. The Commission shall inform the European Parliament and the Council in advance of the possible dates of adoption of draft amending budgets, without prejudice to the final date of adoption.

29. Each in accordance with its internal rules of procedure, the European Parliament and the Council shall endeavour to examine the draft amending budget proposed by the Commission at an early opportunity after its adoption by the Commission.

30. In order to speed up the procedure, the European Parliament and the Council shall ensure that their respective calendars of work are coordinated as far as possible in order to enable proceedings to be conducted in a coherent and convergent fashion. They shall therefore seek as soon as possible to establish an indicative timetable for the various stages leading to the final adoption of the amending budget.

The European Parliament and the Council shall take into account the relative urgency of the amending budget and the need to approve it in due time to be effective during the financial year concerned.

##### *Cooperation during the readings*

31. The institutions shall cooperate in good faith throughout the procedure, clearing the way, as far as possible, for the adoption of amending budgets at an early stage of the procedure.

When appropriate, and when there is a potential divergence, the European Parliament or the Council, before each takes its final position on the amending budget, or the Commission at any time, may propose that a specific trilogue be convened to discuss the divergences and to try to reach a compromise.

32. All draft amending budgets proposed by the Commission and not yet finally approved shall be entered systematically on the agenda of trilogues planned for the annual budgetary procedure. The Commission shall present the draft amending budgets and the European Parliament and the Council shall, as far as possible, make known their respective positions ahead of the trilogue.

33. If a compromise is reached during a trilogue, the European Parliament and the Council undertake to consider the results of the trilogue when deliberating on the amending budget in accordance with the TFEU and their rules of procedure.

*Cooperation after the readings*

34. If the European Parliament approves the position of the Council without amendments, the amending budget shall be adopted in accordance with the TFEU.
35. If the European Parliament adopts amendments by a majority of its component members, Article 314(4)(c) TFEU shall apply. However, before the Conciliation Committee meets, a trilogue shall be called:
- if an agreement is reached during the trilogue and subject to the agreement of the European Parliament and the Council on the results of the trilogue, the conciliation shall be closed by an exchange of letters without a meeting of the Conciliation Committee,
  - if no agreement is reached during the trilogue, the Conciliation Committee shall meet and organise its work in accordance with the circumstances, with a view to completing the decision-making process as much as possible before the 21-day deadline laid down in Article 314(5) TFEU. The Conciliation Committee may conclude by an exchange of letters.

**Part G. *Reste à liquider (RAL)***

36. Given the need to ensure an orderly progression of the total appropriations for payments in relation to the appropriations for commitments so as to avoid any abnormal shift of RAL from one year to another, the European Parliament, the Council and the Commission agree to monitor closely the level of the RAL so as to mitigate the risk of hampering the implementation of Union programmes because of a lack of payment appropriations at the end of the MFF.

In order to ensure a manageable level and profile for the payments in all headings, de-commitment rules shall be applied strictly in all headings, in particular the rules for automatic de-commitments.

In the course of the budgetary procedure, the institutions shall meet regularly with a view to jointly assessing the state of play and the outlook for budgetary implementation in the current and future years. This shall take the form of dedicated interinstitutional meetings at the appropriate level, before which the Commission shall provide the detailed state of play, broken down by fund and Member State, on payment implementation, reimbursement claims received and revised forecasts. In particular, in order to ensure that the Union can fulfill all its financial obligations stemming from existing and future commitments in the period 2014-2020 in accordance with Article 323 TFEU, the European Parliament and the Council shall analyse and discuss the Commission's estimates as to the required level of payment appropriations.

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## II

*(Information)*

### INTERINSTITUTIONAL AGREEMENTS

## EUROPEAN PARLIAMENT

## COMMISSION

**Agreement between the European Parliament and the Commission on procedures for implementing Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, as amended by Decision 2006/512/EC**

(2008/C 143/01)

### **Information to the European Parliament**

1. Pursuant to Article 7(3) of Decision 1999/468/EC <sup>(1)</sup>, the European Parliament is to be informed by the Commission on a regular basis of proceedings of committees <sup>(2)</sup> in accordance with arrangements which ensure that the transmission system is transparent and efficient and that the information forwarded and the various stages of the procedure are identified. To that end, it is to receive, at the same time as the members of the committees and on the same terms, the draft agendas for committee meetings, the draft implementing measures submitted to those committees pursuant to basic instruments adopted in accordance with the procedure provided for by Article 251 of the Treaty, the results of voting, summary records of the meetings and lists of the authorities to which the persons designated by the Member States to represent them belong.

### **Register**

2. The Commission will establish a register containing all documents forwarded to the European Parliament <sup>(3)</sup>. The European Parliament will have direct access to this register. In accordance with Article 7(5) of Decision 1999/468/EC, references of all documents transmitted to the European Parliament will be made public.
3. In accordance with the undertakings given by the Commission in its statement on Article 7(3) of Decision 1999/468/EC <sup>(4)</sup>, and once the appropriate technical arrangements have been made, the register provided for in paragraph 2 will enable, in particular:
  - a clear identification of the documents covered by the same procedure and of any changes to the implementing measure at each stage of the procedure,
  - an indication of the stage of the procedure and the timetable,
  - a clear distinction between the draft measures received by the European Parliament at the same time as the committee members in accordance with the right to information and the final draft following the committee's opinion that is forwarded to the European Parliament,

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

<sup>(2)</sup> Throughout this Agreement, the word 'committee' shall be taken to refer to committees established in accordance with Decision 1999/468/EC, except where it is specified that another committee is referred to.

<sup>(3)</sup> The target date for the establishment of the register is 31 March 2008.

<sup>(4)</sup> OJ C 171, 22.7.2006, p. 21.

- a clear identification of any modification in comparison to documents already forwarded to the European Parliament.
- 4. When, after a transitional period starting from the entry into force of this Agreement, the European Parliament and the Commission conclude that the system is operational and satisfactory, the transmission of documents to the European Parliament shall be made by electronic notification with a link to the register provided for in paragraph 2. This decision shall be taken through an exchange of letters between the presidents of both institutions. During the transitional period, the documents will be forwarded to the European Parliament as an attachment to an electronic mail.
- 5. Furthermore, the Commission agrees to forward to the European Parliament, for information and at the request of the parliamentary committee responsible, specific draft measures implementing basic instruments which, although not adopted in accordance with the procedure provided for by Article 251 of the Treaty, are of particular importance to the European Parliament. These measures shall be entered in the register provided for in paragraph 2 with a notification thereof to the European Parliament.
- 6. In addition to the summary records referred to in paragraph 1, the European Parliament may request access to minutes of committee meetings <sup>(1)</sup>. The Commission will examine each request, on a case by case basis, under the confidentiality rules set out in Annex 1 to the Framework Agreement on relations between the European Parliament and the Commission <sup>(2)</sup>.

#### **Confidential documents**

- 7. Confidential documents will be processed in accordance with internal administrative procedures drawn up by each institution with a view to providing all the requisite guarantees.

#### **European Parliament resolutions under Article 8 of Decision 1999/468/EC**

- 8. Pursuant to Article 8 of Decision 1999/468/EC, the European Parliament may indicate, in a resolution setting out the grounds on which it is based, that draft measures implementing a basic instrument adopted in accordance with the procedure provided for by Article 251 of the Treaty would exceed the implementing powers provided for in that basic instrument.
- 9. The European Parliament is to adopt such resolutions in accordance with its Rules of Procedure; it is to have a period of one month in which to do so, beginning on the date of receipt of the final draft of the implementing measures in the language versions submitted to the members of the committee concerned.
- 10. The European Parliament and the Commission agree that it is appropriate to establish a shorter time limit on a permanent basis for some types of urgent implementing measures on which a decision must be taken within a shorter period of time in the interests of sound management. This applies in particular to some types of measure relating to external action, including humanitarian and emergency aid, to health and safety protection, to transport security and safety and to exemptions from public procurement rules. An agreement between the Member of the Commission and the Chair of the parliamentary committee responsible will lay down the types of measure concerned and the applicable time limits. Such an agreement may be revoked at any time by either side.
- 11. Without prejudice to the cases referred to in paragraph 10, the time limit will be shorter in urgent cases and in the case of measures relating to day-to-day administrative matters and/or having a limited period of validity. That time limit may be very short in extremely urgent cases, in particular on public health grounds. The Member of the Commission responsible is to set the appropriate time limit and to state the reason for that time limit. The European Parliament may in such cases use a procedure whereby application of Article 8 of Decision 1999/468/EC is delegated to the parliamentary committee responsible, which may send a response to the Commission within the relevant time limit.

<sup>(1)</sup> See the judgment of the Court of First Instance of the European Communities of 19 July 1999 in Case T-188/97, *Rothmans v Commission* [1999] ECR II-2463.

<sup>(2)</sup> OJ C 121, 24.4.2001, p. 122.

12. As soon as the Commission's services foresee that draft measures covered by paragraphs 10 and 11 might have to be submitted to a committee, they will informally warn the secretariat of the parliamentary committee or committees responsible thereof. As soon as initial draft measures have been submitted to the members of the committee, the Commission's services will notify the secretariat of the parliamentary committee or committees of their urgency and of the time limits that will apply once the final draft has been submitted.
13. Following the adoption by the European Parliament of a resolution as referred to in paragraph 8 or a response as referred to in paragraph 11, the Member of the Commission responsible is to inform the European Parliament or, where appropriate, the parliamentary committee responsible of the action the Commission intends to take thereon.
14. Data pursuant to paragraphs 10 to 13 will be entered in the register.

### **Regulatory procedure with scrutiny**

15. Where the regulatory procedure with scrutiny applies, and following the vote in the committee, the Commission will inform the European Parliament of the applicable time limits. Subject to paragraph 16, these time limits will start to run only once the European Parliament has received all language versions.
16. Where shorter time limits apply (Article 5a(5)(b) of Decision 1999/468/EC) and in cases of urgency (Article 5a(6) of Decision 1999/468/EC), the time limits shall start to run from the date of receipt by the European Parliament of the final draft implementing measures in the language versions submitted to the members of the committee, unless the Chair of the parliamentary committee objects. In any event, the Commission will endeavour to forward all language versions to the European Parliament as soon as possible. As soon as the Commission's services foresee that draft measures covered by Article 5a(5)(b) or (6) might have to be submitted to a committee, they will informally warn the secretariat of the parliamentary committee or committees responsible thereof.

### **Financial services**

17. In accordance with its statement on Article 7(3) of Decision 1999/468/EC, in respect of financial services the Commission undertakes to:
  - ensure that the Commission official chairing a committee meeting informs the European Parliament, at its request, after each meeting, of any discussions concerning draft implementing measures that have been submitted to that committee,
  - give an oral or written reply to any questions regarding discussions concerning draft implementing measures submitted to a committee.

Finally, the Commission will ensure that the undertakings made at Parliament's plenary sitting of 5 February 2002 <sup>(1)</sup> and restated at its plenary sitting of 31 March 2004 <sup>(2)</sup> and those referred to in points 1 to 7 of the letter of 2 October 2001 <sup>(3)</sup> from Commissioner Bolkestein to the Chair of the European Parliament's Committee on Economic and Monetary Affairs are honoured in respect of the entire financial services sector (including securities, banks, insurance, pensions and accounting).

### **Calendar of parliamentary work**

18. Except where shorter time limits apply or in cases of urgency, the Commission will take into account, when transmitting draft implementing measures under this Agreement, the European Parliament's periods of recess (winter, summer and European elections) in order to ensure that Parliament is able to exercise its prerogatives within the time limits laid down in Decision 1999/468/EC and this Agreement.

<sup>(1)</sup> OJ C 284 E, 21.11.2002, p. 19.

<sup>(2)</sup> OJ C 103 E, 29.4.2004, p. 446 and Verbatim Report of Proceedings (CRE) for Parliament's plenary sitting of 31 March 2004, under 'Vote'.

<sup>(3)</sup> OJ C 284 E, 21.11.2002, p. 83.

**Cooperation between the European Parliament and the Commission**

19. The two institutions express their readiness to assist each other in order to ensure full cooperation when dealing with specific implementing measures. To this effect, appropriate contacts at administrative level will be established.

**Preceding agreements**

20. The 2000 Agreement between the European Parliament and the Commission on procedures for implementing Council Decision 1999/468/EC <sup>(1)</sup> is hereby replaced. The European Parliament and the Commission consider the following agreements superseded and thus of no effect in so far as they are concerned: the 1988 Plumb/Delors Agreement, the 1996 Samland/Williamson Agreement and the 1994 *modus vivendi* <sup>(2)</sup>.

Done at Brussels, 3 June 2008.

*For the European Parliament*

*The President*



Hans-Gert PÖTTERING

*For the Commission of the European Communities*

*The President*



José Manuel DURÃO BARROSO

<sup>(1)</sup> OJ L 256, 10.10.2000, p. 19.

<sup>(2)</sup> OJ C 102, 4.4.1996, p. 1.

**REGULATION (EU) No 182/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 16 February 2011**

**laying down the rules and general principles concerning mechanisms for control by Member States  
of the Commission's exercise of implementing powers**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European  
Union, and in particular Article 291(3) thereof,

Having regard to the proposal from the Commission,

After transmission of the draft legislative act to the national  
parliaments,

Acting in accordance with the ordinary legislative procedure <sup>(1)</sup>,

Whereas:

(1) Where uniform conditions for the implementation of  
legally binding Union acts are needed, those acts (here-  
inafter 'basic acts') are to confer implementing powers on  
the Commission, or, in duly justified specific cases and in  
the cases provided for in Articles 24 and 26 of the Treaty  
on European Union, on the Council.

(2) It is for the legislator, fully respecting the criteria laid  
down in the Treaty on the Functioning of the  
European Union ('TFEU'), to decide in respect of each  
basic act whether to confer implementing powers on  
the Commission in accordance with Article 291(2) of  
that Treaty.

(3) Hitherto, the exercise of implementing powers by the  
Commission has been governed by Council Decision  
1999/468/EC <sup>(2)</sup>.

(4) The TFEU now requires the European Parliament and the  
Council to lay down the rules and general principles  
concerning mechanisms for control by Member States  
of the Commission's exercise of implementing powers.

(5) It is necessary to ensure that the procedures for such  
control are clear, effective and proportionate to the  
nature of the implementing acts and that they reflect  
the institutional requirements of the TFEU as well as  
the experience gained and the common practice  
followed in the implementation of Decision  
1999/468/EC.

(6) In those basic acts which require the control of the  
Member States for the adoption by the Commission of  
implementing acts, it is appropriate, for the purposes of  
such control, that committees composed of the represen-  
tatives of the Member States and chaired by the  
Commission be set up.

(7) Where appropriate, the control mechanism should  
include referral to an appeal committee which should  
meet at the appropriate level.

(8) In the interests of simplification, the Commission should  
exercise implementing powers in accordance with one of  
only two procedures, namely the advisory procedure or  
the examination procedure.

(9) In order to simplify further, common procedural rules  
should apply to the committees, including the key  
provisions relating to their functioning and the possibility  
of delivering an opinion by written procedure.

(10) Criteria should be laid down to determine the procedure  
to be used for the adoption of implementing acts by the  
Commission. In order to achieve greater consistency, the  
procedural requirements should be proportionate to the  
nature and impact of the implementing acts to be  
adopted.

(11) The examination procedure should in particular apply for  
the adoption of acts of general scope designed to  
implement basic acts and specific implementing acts  
with a potentially important impact. That procedure  
should ensure that implementing acts cannot be  
adopted by the Commission if they are not in accordance  
with the opinion of the committee, except in very excep-  
tional circumstances, where they may apply for a limited  
period of time. The procedure should also ensure that the  
Commission is able to review the draft implementing  
acts where no opinion is delivered by the committee,  
taking into account the views expressed within the  
committee.

(12) Provided that the basic act confers implementing powers  
on the Commission relating to programmes with  
substantial budgetary implications or directed to third  
countries, the examination procedure should apply.

<sup>(1)</sup> Position of the European Parliament of 16 December 2010 (not yet  
published in the Official Journal) and decision of the Council of  
14 February 2011.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23.

(13) The chair of a committee should endeavour to find solutions which command the widest possible support within the committee or the appeal committee and should explain the manner in which the discussions and suggestions for amendments have been taken into account. For that purpose, the Commission should pay particular attention to the views expressed within the committee or the appeal committee as regards draft definitive anti-dumping or countervailing measures.

(14) When considering the adoption of other draft implementing acts concerning particularly sensitive sectors, notably taxation, consumer health, food safety and protection of the environment, the Commission, in order to find a balanced solution, will, as far as possible, act in such a way as to avoid going against any predominant position which might emerge within the appeal committee against the appropriateness of an implementing act.

(15) The advisory procedure should, as a general rule, apply in all other cases or where it is considered more appropriate.

(16) It should be possible, where this is provided for in a basic act, to adopt implementing acts which are to apply immediately on imperative grounds of urgency.

(17) The European Parliament and the Council should be promptly informed of committee proceedings on a regular basis.

(18) Either the European Parliament or the Council should be able at any time to indicate to the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act, taking into account their rights relating to the review of the legality of Union acts.

(19) Public access to information on committee proceedings should be ensured in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents <sup>(1)</sup>.

(20) A register containing information on committee proceedings should be kept by the Commission. Consequently, rules relating to the protection of classified documents applicable to the Commission should also apply to the use of the register.

(21) Decision 1999/468/EC should be repealed. In order to ensure the transition between the regime provided for in Decision 1999/468/EC and this Regulation, any reference in existing legislation to the procedures provided for in that Decision should, with the exception of the regulatory procedure with scrutiny provided for in Article 5a thereof, be understood as a reference to the corresponding procedures provided for in this Regulation. The effects of Article 5a of Decision 1999/468/EC should be provisionally maintained for the purposes of existing basic acts which refer to that Article.

(22) The Commission's powers, as laid down by the TFEU, concerning the implementation of the competition rules are not affected by this Regulation,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject-matter**

This Regulation lays down the rules and general principles governing the mechanisms which apply where a legally binding Union act (hereinafter a 'basic act') identifies the need for uniform conditions of implementation and requires that the adoption of implementing acts by the Commission be subject to the control of Member States.

#### *Article 2*

##### **Selection of procedures**

1. A basic act may provide for the application of the advisory procedure or the examination procedure, taking into account the nature or the impact of the implementing act required.

2. The examination procedure applies, in particular, for the adoption of:

(a) implementing acts of general scope;

(b) other implementing acts relating to:

(i) programmes with substantial implications;

(ii) the common agricultural and common fisheries policies;

(iii) the environment, security and safety, or protection of the health or safety, of humans, animals or plants;

(iv) the common commercial policy;

(v) taxation.

<sup>(1)</sup> OJ L 145, 31.5.2001, p. 43.



3. The advisory procedure applies, as a general rule, for the adoption of implementing acts not falling within the ambit of paragraph 2. However, the advisory procedure may apply for the adoption of the implementing acts referred to in paragraph 2 in duly justified cases.

#### *Article 3*

##### **Common provisions**

1. The common provisions set out in this Article shall apply to all the procedures referred to in Articles 4 to 8.

2. The Commission shall be assisted by a committee composed of representatives of the Member States. The committee shall be chaired by a representative of the Commission. The chair shall not take part in the committee vote.

3. The chair shall submit to the committee the draft implementing act to be adopted by the Commission.

Except in duly justified cases, the chair shall convene a meeting not less than 14 days from submission of the draft implementing act and of the draft agenda to the committee. The committee shall deliver its opinion on the draft implementing act within a time limit which the chair may lay down according to the urgency of the matter. Time limits shall be proportionate and shall afford committee members early and effective opportunities to examine the draft implementing act and express their views.

4. Until the committee delivers an opinion, any committee member may suggest amendments and the chair may present amended versions of the draft implementing act.

The chair shall endeavour to find solutions which command the widest possible support within the committee. The chair shall inform the committee of the manner in which the discussions and suggestions for amendments have been taken into account, in particular as regards those suggestions which have been largely supported within the committee.

5. In duly justified cases, the chair may obtain the committee's opinion by written procedure. The chair shall send the committee members the draft implementing act and shall lay down a time limit for delivery of an opinion according to the urgency of the matter. Any committee member who does not oppose the draft implementing act or who does not explicitly abstain from voting thereon before the expiry of that time limit shall be regarded as having tacitly agreed to the draft implementing act.

Unless otherwise provided in the basic act, the written procedure shall be terminated without result where, within the time limit referred to in the first subparagraph, the chair so decides or a committee member so requests. In such a case,

the chair shall convene a committee meeting within a reasonable time.

6. The committee's opinion shall be recorded in the minutes. Committee members shall have the right to ask for their position to be recorded in the minutes. The chair shall send the minutes to the committee members without delay.

7. Where applicable, the control mechanism shall include referral to an appeal committee.

The appeal committee shall adopt its own rules of procedure by a simple majority of its component members, on a proposal from the Commission.

Where the appeal committee is seised, it shall meet at the earliest 14 days, except in duly justified cases, and at the latest 6 weeks, after the date of referral. Without prejudice to paragraph 3, the appeal committee shall deliver its opinion within 2 months of the date of referral.

A representative of the Commission shall chair the appeal committee.

The chair shall set the date of the appeal committee meeting in close cooperation with the members of the committee, in order to enable Member States and the Commission to ensure an appropriate level of representation. By 1 April 2011, the Commission shall convene the first meeting of the appeal committee in order to adopt its rules of procedure.

#### *Article 4*

##### **Advisory procedure**

1. Where the advisory procedure applies, the committee shall deliver its opinion, if necessary by taking a vote. If the committee takes a vote, the opinion shall be delivered by a simple majority of its component members.

2. The Commission shall decide on the draft implementing act to be adopted, taking the utmost account of the conclusions drawn from the discussions within the committee and of the opinion delivered.

#### *Article 5*

##### **Examination procedure**

1. Where the examination procedure applies, the committee shall deliver its opinion by the majority laid down in Article 16(4) and (5) of the Treaty on European Union and, where applicable, Article 238(3) TFEU, for acts to be adopted on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in those Articles.

2. Where the committee delivers a positive opinion, the Commission shall adopt the draft implementing act.

3. Without prejudice to Article 7, if the committee delivers a negative opinion, the Commission shall not adopt the draft implementing act. Where an implementing act is deemed to be necessary, the chair may either submit an amended version of the draft implementing act to the same committee within 2 months of delivery of the negative opinion, or submit the draft implementing act within 1 month of such delivery to the appeal committee for further deliberation.

4. Where no opinion is delivered, the Commission may adopt the draft implementing act, except in the cases provided for in the second subparagraph. Where the Commission does not adopt the draft implementing act, the chair may submit to the committee an amended version thereof.

Without prejudice to Article 7, the Commission shall not adopt the draft implementing act where:

- (a) that act concerns taxation, financial services, the protection of the health or safety of humans, animals or plants, or definitive multilateral safeguard measures;
- (b) the basic act provides that the draft implementing act may not be adopted where no opinion is delivered; or
- (c) a simple majority of the component members of the committee opposes it.

In any of the cases referred to in the second subparagraph, where an implementing act is deemed to be necessary, the chair may either submit an amended version of that act to the same committee within 2 months of the vote, or submit the draft implementing act within 1 month of the vote to the appeal committee for further deliberation.

5. By way of derogation from paragraph 4, the following procedure shall apply for the adoption of draft definitive anti-dumping or countervailing measures, where no opinion is delivered by the committee and a simple majority of its component members opposes the draft implementing act.

The Commission shall conduct consultations with the Member States. 14 days at the earliest and 1 month at the latest after the committee meeting, the Commission shall inform the committee members of the results of those consultations and submit a draft implementing act to the appeal committee. By way of derogation from Article 3(7), the appeal committee shall meet 14 days at the earliest and 1 month at the latest after the submission of the draft implementing act. The appeal committee shall deliver its opinion in accordance with Article 6. The time limits laid down in this paragraph shall be without prejudice to the need to respect the deadlines laid down in the relevant basic acts.

## Article 6

### Referral to the appeal committee

1. The appeal committee shall deliver its opinion by the majority provided for in Article 5(1).
2. Until an opinion is delivered, any member of the appeal committee may suggest amendments to the draft implementing act and the chair may decide whether or not to modify it.

The chair shall endeavour to find solutions which command the widest possible support within the appeal committee.

The chair shall inform the appeal committee of the manner in which the discussions and suggestions for amendments have been taken into account, in particular as regards suggestions for amendments which have been largely supported within the appeal committee.

3. Where the appeal committee delivers a positive opinion, the Commission shall adopt the draft implementing act.

Where no opinion is delivered, the Commission may adopt the draft implementing act.

Where the appeal committee delivers a negative opinion, the Commission shall not adopt the draft implementing act.

4. By way of derogation from paragraph 3, for the adoption of definitive multilateral safeguard measures, in the absence of a positive opinion voted by the majority provided for in Article 5(1), the Commission shall not adopt the draft measures.

5. By way of derogation from paragraph 1, until 1 September 2012, the appeal committee shall deliver its opinion on draft definitive anti-dumping or countervailing measures by a simple majority of its component members.

## Article 7

### Adoption of implementing acts in exceptional cases

By way of derogation from Article 5(3) and the second subparagraph of Article 5(4), the Commission may adopt a draft implementing act where it needs to be adopted without delay in order to avoid creating a significant disruption of the markets in the area of agriculture or a risk for the financial interests of the Union within the meaning of Article 325 TFEU.

In such a case, the Commission shall immediately submit the adopted implementing act to the appeal committee. Where the appeal committee delivers a negative opinion on the adopted implementing act, the Commission shall repeal that act immediately. Where the appeal committee delivers a positive opinion or no opinion is delivered, the implementing act shall remain in force.

*Article 8*

**Immediately applicable implementing acts**

1. By way of derogation from Articles 4 and 5, a basic act may provide that, on duly justified imperative grounds of urgency, this Article is to apply.

2. The Commission shall adopt an implementing act which shall apply immediately, without its prior submission to a committee, and shall remain in force for a period not exceeding 6 months unless the basic act provides otherwise.

3. At the latest 14 days after its adoption, the chair shall submit the act referred to in paragraph 2 to the relevant committee in order to obtain its opinion.

4. Where the examination procedure applies, in the event of the committee delivering a negative opinion, the Commission shall immediately repeal the implementing act adopted in accordance with paragraph 2.

5. Where the Commission adopts provisional anti-dumping or countervailing measures, the procedure provided for in this Article shall apply. The Commission shall adopt such measures after consulting or, in cases of extreme urgency, after informing the Member States. In the latter case, consultations shall take place 10 days at the latest after notification to the Member States of the measures adopted by the Commission.

*Article 9*

**Rules of procedure**

1. Each committee shall adopt by a simple majority of its component members its own rules of procedure on the proposal of its chair, on the basis of standard rules to be drawn up by the Commission following consultation with Member States. Such standard rules shall be published by the Commission in the *Official Journal of the European Union*.

In so far as may be necessary, existing committees shall adapt their rules of procedure to the standard rules.

2. The principles and conditions on public access to documents and the rules on data protection applicable to the Commission shall apply to the committees.

*Article 10*

**Information on committee proceedings**

1. The Commission shall keep a register of committee proceedings which shall contain:

(a) a list of committees;

(b) the agendas of committee meetings;

(c) the summary records, together with the lists of the authorities and organisations to which the persons designated by the Member States to represent them belong;

(d) the draft implementing acts on which the committees are asked to deliver an opinion;

(e) the voting results;

(f) the final draft implementing acts following delivery of the opinion of the committees;

(g) information concerning the adoption of the final draft implementing acts by the Commission; and

(h) statistical data on the work of the committees.

2. The Commission shall also publish an annual report on the work of the committees.

3. The European Parliament and the Council shall have access to the information referred to in paragraph 1 in accordance with the applicable rules.

4. At the same time as they are sent to the committee members, the Commission shall make available to the European Parliament and the Council the documents referred to in points (b), (d) and (f) of paragraph 1 whilst also informing them of the availability of such documents.

5. The references of all documents referred to in points (a) to (g) of paragraph 1 as well as the information referred to in paragraph 1(h) shall be made public in the register.

*Article 11*

**Right of scrutiny for the European Parliament and the Council**

Where a basic act is adopted under the ordinary legislative procedure, either the European Parliament or the Council may at any time indicate to the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act. In such a case, the Commission shall review the draft implementing act, taking account of the positions expressed, and shall inform the European Parliament and the Council whether it intends to maintain, amend or withdraw the draft implementing act.

*Article 12*

**Repeal of Decision 1999/468/EC**

Decision 1999/468/EC is hereby repealed.

The effects of Article 5a of Decision 1999/468/EC shall be maintained for the purposes of existing basic acts making reference thereto.

*Article 13*

**Transitional provisions: adaptation of existing basic acts**

1. Where basic acts adopted before the entry into force of this Regulation provide for the exercise of implementing powers by the Commission in accordance with Decision 1999/468/EC, the following rules shall apply:

- (a) where the basic act makes reference to Article 3 of Decision 1999/468/EC, the advisory procedure referred to in Article 4 of this Regulation shall apply;
- (b) where the basic act makes reference to Article 4 of Decision 1999/468/EC, the examination procedure referred to in Article 5 of this Regulation shall apply, with the exception of the second and third subparagraphs of Article 5(4);
- (c) where the basic act makes reference to Article 5 of Decision 1999/468/EC, the examination procedure referred to in Article 5 of this Regulation shall apply and the basic act shall be deemed to provide that, in the absence of an opinion, the Commission may not adopt the draft implementing act, as envisaged in point (b) of the second subparagraph of Article 5(4);
- (d) where the basic act makes reference to Article 6 of Decision 1999/468/EC, Article 8 of this Regulation shall apply;
- (e) where the basic act makes reference to Articles 7 and 8 of Decision 1999/468/EC, Articles 10 and 11 of this Regulation shall apply.

2. Articles 3 and 9 of this Regulation shall apply to all existing committees for the purposes of paragraph 1.

3. Article 7 of this Regulation shall apply only to existing procedures which make reference to Article 4 of Decision 1999/468/EC.

4. The transitional provisions laid down in this Article shall not prejudice the nature of the acts concerned.

*Article 14*

**Transitional arrangement**

This Regulation shall not affect pending procedures in which a committee has already delivered its opinion in accordance with Decision 1999/468/EC.

*Article 15*

**Review**

By 1 March 2016, the Commission shall present a report to the European Parliament and the Council on the implementation of this Regulation, accompanied, if necessary, by appropriate legislative proposals.

*Article 16*

**Entry into force**

This Regulation shall enter into force on 1 March 2011.

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

Done at Strasbourg, 16 February 2011.

*For the European Parliament*  
*The President*  
J. BUZEK

*For the Council*  
*The President*  
MARTONYI J.

## II

(Information)

### INTERINSTITUTIONAL AGREEMENTS

#### **Non-Binding Criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union — 18 June 2019**

(2019/C 223/01)

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION,

Whereas:

- (1) The European Parliament, the Council and the Commission ('the three Institutions') concluded on 13 April 2016 the Interinstitutional Agreement on Better Law-Making <sup>(1)</sup> ('the Agreement').
- (2) The three Institutions underlined in paragraph 26 of the Agreement the important role played by implementing and delegated acts in Union law, and that, used in an efficient, transparent manner and in justified cases, they are an integral tool for Better Law-Making, contributing to simple, up-to-date legislation and its efficient, swift implementation.
- (3) The three Institutions envisaged in paragraph 28 of the Agreement to supplement the Common Understanding on Delegated Acts annexed to the Agreement by providing for non-binding criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).
- (4) The implementation of those criteria may be the subject of annual discussions at both political and technical level as part of the general monitoring of the implementation of the Agreement in accordance with paragraph 50 thereof.
- (5) While Article 291(2) TFEU provides that, where uniform conditions for implementing legally binding Union acts are needed, those acts are to confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council, the purpose of the non-binding criteria is to delineate between delegated acts and implementing acts, and not between the institutions on which implementing powers are conferred. These non-binding criteria are not designed to define or restrict in any respect the conditions under which an institution exercises the powers conferred on it in accordance with relevant Union law, including the basic act.
- (6) The Court of Justice of the European Union has already on several occasions addressed specific issues relevant for the application of Articles 290 and 291 TFEU <sup>(2)</sup>. That case-law might further develop in the future. Where appropriate, the non-binding criteria may need to be reviewed in the light of the developments of the case-law,

<sup>(1)</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

<sup>(2)</sup> inter alia: Judgment of the Court of Justice of 18 March 2014, *Commission v Parliament and Council* (known as 'the Biocides case'), C-427/12, ECLI:EU:C:2014:170; Judgment of the Court of Justice of 17 March 2016, *Parliament v Commission* (known as 'the Connecting Europe Facility/CEF case'), C-286/14, ECLI:EU:C:2016:183; Judgment of the Court of Justice of 16 July 2015, *Commission v Parliament and Council* (known as 'the Visa Reciprocity Mechanism case'), C-88/14, ECLI:EU:C:2015:499.

HAVE AGREED AS FOLLOWS:

## I. GENERAL PRINCIPLES

1. These non-binding criteria provide guidance to the three Institutions as to whether in legislative acts an empowerment should be of a delegated or an implementing nature, and should thus be given pursuant to Article 290 TFEU for the adoption of a delegated act or Article 291 TFEU for the adoption of an implementing act.
2. In each case the nature of the envisaged act must be determined taking into account the objectives, content and context of the envisaged act as well as those of the legislative act itself.
3. It is the competence of the legislator to decide whether and to what extent to use delegated or implementing acts, within the limits of the TFEU. In that regard, it is for the legislator to determine whether to empower the Commission to adopt delegated acts as well as to assess whether there will be a need for powers to ensure uniform conditions for implementing the legislative act.
4. If the legislator considers that a provision should be an integral part of the basic act, it may decide to include that provision in an annex. The legislator is never obliged to provide for annexes in legislative acts and can decide to provide for separate acts instead, but the three Institutions recall that the structure of a legislative act should be guided by the common commitments and objectives set out in the Agreement to have simple, clear and consistent legislation, which is accessible, comprehensible to citizens, administrations and businesses, practical to implement and made irrespective of the issue of empowerment. This, in no way, restricts the powers of the legislator.
5. The essential elements of legislation must be determined in the basic act. Therefore, the power to adopt rules entailing political choices falling within the responsibilities of the Union legislature, for example in that it requires the conflicting interests at issue to be weighed up on the basis of a number of assessments, may not be conferred on the Commission <sup>(3)</sup>. When it exercises delegated or implementing powers, the Commission must fully respect the essential elements of the enabling act <sup>(4)</sup>.
6. A legislative act may confer the power to adopt delegated acts only on the Commission.
7. The criteria should not be considered as exhaustive.

## II. CRITERIA

### A. ACTS OF GENERAL OR INDIVIDUAL APPLICATION

1. Delegated acts may only be of general application. Measures of individual application may not be adopted by delegated acts.
2. Implementing acts may be of individual or general application.
3. An act is regarded as being of general application if it applies to objectively determined situations and entails legal effects for categories of persons envisaged generally and in the abstract <sup>(5)</sup>.

### B. AMENDMENTS OF LEGISLATIVE ACTS INCLUDING THEIR ANNEXES

1. If the legislator confers the power to amend a legislative act on the Commission, that power can only be exercised by delegated acts <sup>(6)</sup>, including where that power to amend relates to the annexes, as they are an integral part of legislative acts.
2. The delegation of a power to 'amend' a legislative act aims to authorise the Commission to modify or repeal non-essential elements laid down by the legislator in that act <sup>(7)</sup>. Amendments may include insertions and additions in relation to certain non-essential elements of the legislative act, or deletions or replacements of non-essential elements.

<sup>(3)</sup> Judgment of the Court of Justice of 5 September 2012, *Parliament v Council*, C-355/10, ECLI:EU:C:2012:516, paragraphs 64, 65 and 76; Judgment of the Court of 26 July 2017, *Czech Republic v Commission*, C-696/15 P, ECLI:EU:C:2017:595, paragraph 78; Judgment of the Court of Justice of 11 May 2017, *Dyson v Commission*, C-44/16 P, ECLI:EU:C:2017:357, paragraphs 61 and 62.

<sup>(4)</sup> Judgment of the Court of Justice of 11 May 2017, *Dyson v Commission*, C-44/16 P, ECLI:EU:C:2017:357, paragraph 65.

<sup>(5)</sup> Judgment of the General Court of 14 June 2012, *Stichting Natuur en Milieu and Pesticide Action Network Europe v Commission*, T-338/08, ECLI:EU:T:2012:300, paragraph 30; Judgment of the General Court of 7 March 2013, *Bilbaína de Alquitranes and others v ECHA*, T-93/10, ECLI:EU:T:2013:106, paragraphs 32 and 56.

<sup>(6)</sup> Judgment of the Court of Justice of 15 October 2014, *Parliament v Commission*, C-65/13, ECLI:EU:C:2014:2289, paragraph 45; Judgment of the Court of Justice of 16 July 2015, *Commission v Parliament and Council*, C-88/14, ECLI:EU:C:2015:499, paragraph 31.

<sup>(7)</sup> Judgment of the Court of Justice of 17 March 2016, *Parliament v Commission*, C-286/14, ECLI:EU:C:2016:183, paragraph 42.

**C. ADDITIONAL RULES SUPPLEMENTING THE BASIC ACT**

Measures that consist in the adoption of additional rules building upon or developing the content while coming within the regulatory framework as defined by the basic act should be laid down in delegated acts. This would be the case for measures affecting in substance the rules laid down in the basic act and allowing the Commission to ‘flesh out’ the basic act, provided that they do not touch on its essential elements.

**D. ADDITIONAL RULES IMPLEMENTING THE BASIC ACT**

By contrast, additional rules implementing or giving effect to the rules already established in the basic act by specifying in further detail the content of that act, without affecting the substance of the legislative framework, should be laid down in implementing acts. This would be the case where a sufficiently precise legal framework has been laid down by the legislator, for example where the main conditions and criteria are laid down by the legislator.

**E. ACTS ESTABLISHING A PROCEDURE, A METHOD OR A METHODOLOGY**

1. Measures establishing a procedure (that is to say a way of performing or accomplishing something in order to achieve a certain result defined in the basic act) can be laid down either in a delegated act or in an implementing act (or can even be an essential element of the basic act), depending on their nature, objectives, content and context.

For instance, measures establishing elements of a procedure which build upon or develop the content of the basic act and which come within the regulatory framework as defined by the basic act should be laid down in delegated acts.

By contrast, measures ensuring the uniform implementation of a rule laid down in the basic act by establishing a procedure should be laid down in implementing acts.

2. Similarly, an empowerment to determine a method (that is to say a way of doing something in particular in a regular and systematic way) or methodology (that is to say rules to determine a method) may provide for delegated or implementing acts depending on its nature, objectives, content and context.

**F. ACTS RELATING TO AN OBLIGATION TO PROVIDE INFORMATION**

Measures relating to an obligation to provide information can be laid down either in a delegated act or in an implementing act (or can even be an essential element of the basic act), depending on their nature, objectives, content and context.

For instance, measures that determine additional rules building upon the content of an obligation to provide information should be laid down in delegated acts. This will generally be the case of additional non-essential elements affecting in substance an obligation to provide information.

By contrast, measures which are aimed at ensuring that an obligation to provide information is fulfilled in a uniform manner, such as format and technical means, should be laid down in implementing acts. For instance, where the basic act determines in a sufficiently precise manner the substance of the obligation to provide information, measures that specify in further detail the information to be provided in order to ensure comparability of data or effective enforcement of obligations should be laid down in implementing acts.

**G. ACTS RELATING TO AUTHORISATIONS**

Measures relating to authorisations, for example of products or substances, can be laid down either in a delegated act or in an implementing act (or can even be an essential element of the basic act), depending on their nature, objectives, content and context.

Authorisations of individual application may only be adopted by implementing acts. Authorisations of general application for which the Commission decision is based on criteria defined in the basic act in a sufficiently precise manner should be adopted by implementing acts.

Authorisations of general application that supplement the basic act, in that they are not limited to the application of the criteria laid down in the basic act but at the same time build upon the content of the basic act (within the limits of the empowerment conferred), should be adopted by delegated acts.

**III. MONITORING OF THE APPLICATION AND REVIEW OF THESE CRITERIA**

1. The three Institutions will jointly and regularly monitor the application of these criteria.

2. The three Institutions will review the criteria in accordance with their respective internal arrangements, where applicable through their bodies having specific competence in this area, if necessary and appropriate in the light of developments in the case-law of the Court of Justice of the European Union.
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## INTERINSTITUTIONAL AGREEMENTS

### **Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation**

THE EUROPEAN PARLIAMENT AND THE EUROPEAN COMMISSION ('the parties hereto'),

Having regard to the Treaty on European Union, in particular Article 11(1) and (2) thereof, the Treaty on the Functioning of the European Union, in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community (hereinafter together referred to as 'the Treaties'),

Whereas European policy-makers do not operate in isolation from civil society, but maintain an open, transparent and regular dialogue with representative associations and civil society;

Whereas the parties hereto have reviewed the Transparency Register (hereinafter 'the register') established by the Agreement between the European Parliament and the European Commission of 23 June 2011 on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation <sup>(1)</sup> pursuant to paragraph 30 of that agreement,

AGREE AS FOLLOWS:

#### **I. PRINCIPLES OF THE REGISTER**

1. The establishment and operation of the register shall not affect or prejudice the objectives of the European Parliament as expressed in its resolution of 8 May 2008 on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions <sup>(2)</sup> and in its decision of 11 May 2011 on conclusion of an inter-institutional agreement between the European Parliament and the Commission on a common Transparency Register <sup>(3)</sup>.
2. The operation of the register shall respect the general principles of Union law, including the principles of proportionality and non-discrimination.
3. The operation of the register shall respect the rights of Members of the European Parliament to exercise their parliamentary mandate without restriction.
4. The operation of the register shall not impinge on the competences or prerogatives of the parties hereto or affect their respective organisational powers.
5. The parties hereto shall strive to treat all operators engaged in similar activities in a similar manner, and to allow for a level playing-field for the registration of organisations and self-employed individuals engaged in EU policy-making and policy implementation.

#### **II. STRUCTURE OF THE REGISTER**

6. The structure of the register shall be as follows:
  - (a) provisions on the scope of the register, activities covered by the register, definitions, incentives and exemptions;
  - (b) sections for registration (Annex I);

<sup>(1)</sup> OJ L 191, 22.7.2011, p. 29.

<sup>(2)</sup> OJ C 271 E, 12.11.2009, p. 48.

<sup>(3)</sup> OJ C 377 E, 7.12.2012, p. 176.

- (c) information required from registrants, including financial disclosure requirements (Annex II);
- (d) code of conduct (Annex III);
- (e) alert and complaint mechanisms and measures to be applied in the event of non-compliance with the code of conduct, including the procedures for alerts and for the investigation and treatment of complaints (Annex IV);
- (f) implementation guidelines with practical information for registrants.

### **III. SCOPE OF THE REGISTER**

#### **Activities covered**

7. The scope of the register covers all activities, other than those referred to in paragraphs 10 to 12, carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions, irrespective of where they are undertaken and of the channel or medium of communication used, for example via outsourcing, media, contracts with professional intermediaries, think tanks, platforms, forums, campaigns and grassroots initiatives.

For the purpose of this agreement, 'directly influencing' means influencing by way of a direct contact or communication with the EU institutions or other action following up on such activities and 'indirectly influencing' means influencing through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions.

In particular, those activities include:

- contacting Members and their assistants, officials or other staff of the EU institutions;
- preparing, circulating and communicating letters, information material or discussion papers and position papers;
- organising events, meetings, promotional activities, conferences or social events, invitations to which have been sent to Members and their assistants, officials or other staff of the EU institutions; and
- voluntary contributions and participation in formal consultations or hearings on envisaged EU legislative or other legal acts and other open consultations.

8. All organisations and self-employed individuals, irrespective of their legal status, engaged in activities, whether on-going or under preparation, covered by the register are expected to register.

Any activity covered by the register and which is developed under contract by an intermediary providing legal and other professional advice, shall entail eligibility for registration both for the intermediary and for its client. Such intermediaries shall declare all clients under such contracts as well as the revenue per client for representation activities as set out in Annex II at point II.C.2.b. This requirement does not exempt clients from registering and including in their own cost estimates the cost of any activities subcontracted to an intermediary.

#### **Activities not covered**

9. An organisation shall only be eligible to register if it carries out activities, covered by the register, which have resulted in direct or indirect communication with EU institutions. An organisation deemed non-eligible may be removed from the register.

10. Activities concerning the provision of legal and other professional advice are not covered by the register in so far as:

- they consist of advisory work and contacts with public bodies in order to better inform clients about a general legal situation or about their specific legal position, or to advise them whether a particular legal or administrative step is appropriate or admissible under the existing legal and regulatory environment;
- they consist of advice given to clients to help them ensure that their activities comply with the relevant law;
- they consist of analyses and studies prepared for clients on the potential impact of any legislative or regulatory changes with regard to their legal position or field of activity;

- they consist of representation in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body; or
- they relate to the exercise of the fundamental right of a client to a fair trial, including the right of defence in administrative proceedings, such as activities carried out by lawyers or by any other professionals involved therein.

If a company and its advisers are involved as a party in a specific legal or administrative case or procedure, any activity relating directly thereto which does not seek as such to change the existing legal framework is not covered by the register. This subparagraph applies to all business sectors in the European Union.

However, the following activities concerning the provision of legal and other professional advice are covered by the register where they are intended to influence the EU institutions, their Members and their assistants or their officials or other staff:

- the provision of support, via representation or mediation, or of advocacy material, including argumentation and drafting; and
- the provision of tactical or strategic advice, including the raising of issues the scope of which and the timing of communication of which are intended to influence the EU institutions, their Members and their assistants or their officials or other staff.

11. Activities of the social partners as participants in the social dialogue (trade unions, employers' associations, etc.) are not covered by the register where those social partners perform the role assigned to them in the Treaties. This paragraph applies *mutatis mutandis* to any entity specifically designated in the Treaties to play an institutional role;

12. Activities in response to direct and individual requests from EU institutions or Members of the European Parliament, such as ad hoc or regular requests for factual information, data or expertise, are not covered by the register.

### **Specific provisions**

13. The register does not apply to churches and religious communities. However, the representative offices or legal entities, offices and networks created to represent churches and religious communities in their dealings with the EU institutions, as well as their associations, are expected to register.

14. The register does not apply to political parties. However, any organisations created or supported by them which are engaged in activities covered by the register are expected to register.

15. The register does not apply to Member States' government services, third countries' governments, international intergovernmental organisations and their diplomatic missions.

16. Regional public authorities and their representative offices are not expected to register, but can register if they wish to do so. Any association or network created to represent regions collectively is expected to register.

17. All sub-national public authorities other than those referred to in paragraph 16, such as local and municipal authorities or cities, or their representation offices, associations or networks, are expected to register.

18. Networks, platforms or other forms of collective activity, which have no legal status or legal personality but which constitute de facto a source of organised influence and which are engaged in activities covered by the register, are expected to register. Members of such forms of collective activity shall designate a representative to act as their contact person responsible for liaising with the 'Joint Transparency Register Secretariat' (JTRS).

19. The activities to be taken into account for assessing eligibility to register are those aimed (directly or indirectly) at all EU institutions, agencies and bodies, and their Members and their assistants, officials and other staff. Such activities do not include activities directed at Member States, in particular those directed at their permanent representations to the European Union.

20. European networks, federations, associations or platforms are encouraged to produce common, transparent guidelines for their members identifying the activities covered by the register. They are expected to make those guidelines public.

#### IV. RULES APPLICABLE TO REGISTRANTS

21. By registering, the organisations and individuals concerned:
- agree that the information which they provide for inclusion in the register shall be in the public domain;
  - agree to act in compliance with the code of conduct set out in Annex III and, where relevant, to provide the text of any professional code of conduct by which they are bound <sup>(1)</sup>;
  - guarantee that the information provided for inclusion in the register is correct and agree to cooperate with administrative requests for complementary information and updates;
  - accept that any alert or complaint concerning them will be handled on the basis of the rules in the code of conduct set out in Annex III;
  - agree to be subject to any measures to be applied in the event of non-compliance with the code of conduct set out in Annex III and acknowledge that the measures provided for in Annex IV may be applied to them in the event of non-compliance with the code;
  - note that the parties hereto may, upon request and subject to the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>(2)</sup>, have to disclose correspondence and other documents concerning the activities of registrants.

#### V. IMPLEMENTATION

22. The Secretaries-General of the European Parliament and the European Commission shall be responsible for supervision of the system and for all key operational aspects, and shall by common accord take the measures necessary to implement this agreement.

23. Although the system is operated jointly, the parties hereto remain free to use the register independently for their own specific purposes.

24. In order to implement the system, the services of the European Parliament and the European Commission maintain a joint operational structure, designated as the JTRS. The JTRS is made up of a group of officials from the European Parliament and the European Commission pursuant to an arrangement agreed by the competent services. The JTRS operates under the coordination of a Head of Unit in the Secretariat-General of the European Commission. The tasks of the JTRS include producing implementation guidelines, within the limits of this agreement, to facilitate a consistent interpretation of the rules by registrants, and monitoring the quality of the content of the register. The JTRS shall use the administrative resources available to perform quality checks of the content of the register, on the understanding, however, that registrants are ultimately responsible for the information they have provided.

25. The parties hereto shall organise appropriate training and internal communication projects to raise awareness of the register and of the alert and complaints procedures among their Members and staff.

26. The parties hereto shall take appropriate measures externally to raise awareness of the register and promote its use.

27. A series of basic statistics, extracted from the database of the register, shall be published regularly on the *Europa* Transparency Register website and shall be accessible via a user-friendly search engine. The public content of that database shall be available in electronic, machine-readable formats.

28. An annual report on the operation of the register shall be submitted by the Secretaries-General of the European Parliament and the European Commission respectively to the relevant Vice-President of the European Parliament and to the relevant Vice-President of the European Commission. The annual report shall provide factual information about the register, its content and its evolution, and shall be published each year for the preceding calendar year.

<sup>(1)</sup> The professional code of conduct by which a registrant is bound may impose obligations which are more stringent than the requirements of the code of conduct set out in Annex III.

<sup>(2)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

## **VI. MEASURES APPLICABLE FOR COMPLIANT REGISTRANTS**

29. Access passes to the European Parliament's premises will only be issued to individuals representing, or working for, organisations falling within the scope of the register where those organisations or individuals have registered. However, registration shall not confer an automatic entitlement to such an access pass. The issue and control of passes affording long-term access to the European Parliament's premises shall remain an internal procedure of the Parliament under its own responsibility.

30. The parties hereto shall offer incentives, in the framework of their administrative authority, in order to encourage registration within the framework created by this agreement.

Incentives offered by the European Parliament to registrants may include:

- further facilitation of access to its premises, its Members and their assistants, its officials and other staff;
- authorisation to organise or co-host events on its premises;
- facilitated transmission of information, including specific mailing lists;
- participation as speakers in committee hearings;
- patronage by the European Parliament.

Incentives offered by the European Commission to registrants may include:

- measures with regard to the transmission of information to registrants when launching public consultations;
- measures with regard to expert groups and other advisory bodies;
- specific mailing lists;
- patronage by the European Commission.

Specific incentives available to registrants shall be communicated to them by the parties hereto.

## **VII. MEASURES IN THE EVENT OF NON-COMPLIANCE WITH THE CODE OF CONDUCT**

31. Any person may lodge alerts and complaints, using the standard contact form, available on the website of the register, concerning possible non-compliance with the code of conduct set out in Annex III. Alerts and complaints shall be handled in accordance with the procedures laid down in Annex IV.

32. An alert mechanism is a tool to complement the quality checks performed by the JTRS in accordance with paragraph 24. Any person may lodge an alert with regard to factual mistakes concerning the information provided by the registrants. Alerts may also be lodged with regard to non-eligible registrations.

33. Any person may lodge a formal complaint where non-compliance by a registrant with the code of conduct, other than factual mistakes, is suspected. Complaints shall be substantiated by material facts with regard to the suspected non-compliance with the code.

The JTRS shall investigate the suspected non-compliance with due regard for the principles of proportionality and good administration. Intentional non-compliance with the code of conduct by registrants or by their representatives shall lead to the application of the measures laid down in Annex IV.

34. Where repeated non-cooperation, repeated inappropriate behaviour, or serious non-compliance with the code of conduct, has been identified by the JTRS under the procedures referred to in paragraphs 31 to 33, the registrant concerned shall be removed from the register for a time period of either one year or two years and the measure will be publicly mentioned in the register, as laid down in Annex IV.

**VIII. INVOLVEMENT OF OTHER INSTITUTIONS AND BODIES**

35. The European Council and the Council are invited to join the register. Other EU institutions, bodies and agencies are encouraged to use the framework created by this agreement themselves as a reference instrument for their own interaction with organisations and self-employed individuals engaged in EU policy-making and policy implementation.

**IX. FINAL PROVISIONS**

36. This agreement shall replace the agreement between the European Parliament and the European Commission of 23 June 2011 whose effects shall cease to apply on the date of application of this agreement.

37. The register shall be subject to a review in 2017.

38. This agreement shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2015.

Entities already registered at the date of application of this agreement shall amend their registration to satisfy the new requirements resulting from this agreement within a period of three months following that date.

Done at Strasbourg, 16 April 2014.

*For the European Parliament*

*The President*

M. SCHULZ

*For the European Commission*

*The Vice-President*

M. ŠEFČOVIČ

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ANNEX I

**‘Transparency Register’**

**Organisations and self-employed individuals engaged in EU policy-making and policy implementation**

Sections		Characteristics/remarks
<b>I — Professional consultancies/law firms/self-employed consultants</b>		
Subsection	Professional consultancies	Firms carrying on, on behalf of clients, activities involving advocacy, lobbying, promotion, public affairs and relations with public authorities.
Subsection	Law firms	Law firms carrying on, on behalf of clients, activities involving advocacy, lobbying, promotion, public affairs and relations with public authorities.
Subsection	Self-employed consultants	Self-employed consultants or lawyers carrying on, on behalf of clients, activities involving advocacy, lobbying, promotion, public affairs and relations with public authorities. This subsection is for registration of entities involving only one person.
<b>II — In-house lobbyists and trade/business/professional associations</b>		
Subsection	Companies and groups	Companies or groups of companies (with or without legal status) carrying on in-house, for their own account, activities involving advocacy, lobbying, promotion, public affairs and relations with public authorities.
Subsection	Trade and business associations	Organisations (either profit or non-profit making themselves) representing profit-making companies or mixed groups and platforms.
Subsection	Trade unions and professional associations	Interest representation of workers, employees, trades or professions.
Subsection	Other organisations including: — event-organising entities (profit or non-profit making); — interest-related media or research oriented entities linked to private profit making interests; — ad-hoc coalitions and temporary structures (with profit-making membership).	
<b>III — Non-governmental organisations</b>		
Subsection	Non-governmental organisations, platforms, networks, ad-hoc coalitions, temporary structures and other similar organisations.	Not-for-profit organisations (with or without legal status), which are independent from public authorities or commercial organisations. Includes foundations, charities, etc.  Any such entity including profit-making elements among its membership must register in Section II.

Sections		Characteristics/remarks
<b>IV — Think tanks, research and academic institutions</b>		
Subsection	Think tanks and research institutions	Specialised think tanks and research institutions dealing with the activities and policies of the European Union.
Subsection	Academic institutions	Institutions whose primary purpose is education but that deal with the activities and policies of the European Union.
<b>V — Organisations representing churches and religious communities</b>		
Subsection	Organisations representing churches and religious communities	Legal entities, offices, networks or associations set up for representation activities.
<b>VI — Organisations representing local, regional and municipal authorities, other public or mixed entities, etc.</b>		
Subsection	Regional structures	Regions themselves and their representative offices are not expected to register but can register if they wish to do so. Associations or networks created to represent regions collectively are expected to register.
Subsection	Other sub-national public authorities	All other sub-national public authorities, such as cities, local and municipal authorities, or their representation offices, and national associations or networks, are expected to register.
Subsection	Transnational associations and networks of public regional or other sub-national authorities	
Subsection	Other public or mixed entities, created by law whose purpose is to act in the public interest	Includes other organisations with public or mixed (public/private) status.



ANNEX II

INFORMATION TO BE PROVIDED BY REGISTRANTS

I. GENERAL AND BASIC INFORMATION

- (a) organisation name(s), address of head office and Brussels, Luxembourg or Strasbourg address where relevant, phone number, e-mail address, website;
- (b) names of the person legally responsible for the organisation and of the organisation's director or managing partner or, if applicable, principal contact point in respect of activities covered by the register (i.e. head of EU affairs); names of the persons with authorisation for access to the European Parliament's premises <sup>(1)</sup>;
- (c) number of persons (members, staff, etc.) involved in activities covered by the register and of persons benefiting from an access pass to the European Parliament's premises and the amount of time spent by each person on such activities according to the following percentages of a full-time activity: 25 %, 50 %, 75 % or 100 %;
- (d) goals/remit — fields of interest — activities — countries in which operations are carried out — affiliations to networks — general information falling within the scope of the register;
- (e) membership and, if applicable, number of members (individuals and organisations).

II. SPECIFIC INFORMATION

A. *Activities covered by the register*

Specific details shall be provided on the main legislative proposals or policies targeted by activities of the registrant, and which are covered by the register. Reference to other specific activities, such as events or publications, may be made.

B. *Links with EU institutions*

- (a) Membership of high-level groups, consultative committees, expert groups, other EU supported structures and platforms, etc.
- (b) Membership of, or participation in, European Parliament intergroups or industry forums, etc.

C. *Financial information related to the activities covered by the register*

1. **All registrants shall provide:**

- (a) An estimate of the annual costs related to activities covered by the register. Financial figures shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.
- (b) The amount and source of funding, received from EU institutions in the most recent financial year closed, as of the date of registration or of the annual update of the registration details. That information shall correspond to the information provided by the European Financial Transparency System <sup>(2)</sup>.

2. **Professional consultancies/law firms/self-employed consultants (Section I of Annex I) shall additionally provide:**

- (a) The turnover attributable to the activities covered by the register according to the following grid:

Annual turnover for representation activities in euros
0 – 99 999
100 000 – 499 999
500 000 – 1 000 000
> 1 000 000

<sup>(1)</sup> Registrants can request authorisation for access to the European Parliament's premises at the end of the registration process. The names of individuals who receive access passes to the European Parliament's premises shall be inserted in the register. Registration shall not confer an automatic entitlement to such an access pass.

<sup>(2)</sup> [http://ec.europa.eu/budget/fts/index\\_en.htm](http://ec.europa.eu/budget/fts/index_en.htm)

- (b) A list of all clients, on behalf of whom activities covered by the register are carried out. Revenue from clients for representation activities shall be listed according to the following grid:

Bracket size of representation activities per client per annum in euros
0 – 9 999
10 000 – 24 999
25 000 – 49 999
50 000 – 99 999
100 000 – 199 999
200 000 – 299 999
300 000 – 399 999
400 000 – 499 999
500 000 – 599 999
600 000 – 699 999
700 000 – 799 999
800 000 – 899 999
900 000 – 1 000 000
> 1 000 000

- (c) Clients are also expected to register. The financial declaration made by professional consultancies/law firms/self-employed consultants concerning their clients (list and grid) does not exempt those clients from their obligation to include subcontracted activities in their own declarations, so as to avoid an underestimation of their declared financial outlay.

**3. In-house lobbyists and trade/business/professional associations (Section II of Annex I) shall additionally provide:**

the turnover attributable to the activities covered by the register, including for amounts less than EUR 10 000.

**4. Non-governmental organisations — Think tanks, research and academic institutions — organisations representing churches and religious communities — organisations representing local, regional and municipal authorities, other public or mixed entities, etc. (Sections III to VI of Annex I) shall additionally provide:**

- (a) the total budget of the organisation
- (b) a breakdown of the main amounts and sources of funding.

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ANNEX III

**CODE OF CONDUCT**

The parties hereto consider that all interest representatives interacting with them, whether on a single occasion or more frequently, registered or not, should behave in conformity with this code of conduct.

In their relations with EU institutions and their Members, officials and other staff, interest representatives shall:

- (a) always identify themselves by name and, by registration number, if applicable, and by the entity or entities they work for or represent; declare the interests, objectives or aims they promote and, where applicable, specify the clients or members whom they represent;
- (b) not obtain or try to obtain information or decisions dishonestly or by use of undue pressure or inappropriate behaviour;
- (c) not claim any formal relationship with the European Union or any of its institutions in their dealings with third parties, or misrepresent the effect of registration in such a way as to mislead third parties or officials or other staff of the European Union, or use the logos of EU institutions without express authorisation;
- (d) ensure that, to the best of their knowledge, information, which they provide upon registration, and subsequently in the framework of their activities covered by the register, is complete, up-to-date and not misleading; accept that all information provided is subject to review and agree to cooperate with administrative requests for complementary information and updates;
- (e) not sell to third parties copies of documents obtained from EU institutions;
- (f) in general, respect, and avoid any obstruction to the implementation and application of, all rules, codes and good governance practices established by EU institutions;
- (g) not induce Members of the institutions of the European Union, officials or other staff of the European Union, or assistants or trainees of those Members, to contravene the rules and standards of behaviour applicable to them;
- (h) if employing former officials or other staff of the European Union, or assistants or trainees of Members of EU institutions, respect the obligation of such employees to abide by the rules and confidentiality requirements which apply to them;
- (i) obtain the prior consent of the Member or Members of the European Parliament concerned as regards any contractual relationship with, or employment of, any individual within a Member's designated entourage;
- (j) observe any rules laid down on the rights and responsibilities of former Members of the European Parliament and the European Commission;
- (k) inform whomever they represent of their obligations towards the EU institutions.

Individuals who have registered with the European Parliament with a view to being issued with a personal, non-transferable pass affording access to the European Parliament's premises shall:

- (l) ensure that they wear the access pass visibly at all times in European Parliament premises;
- (m) comply strictly with the relevant European Parliament Rules of Procedure;
- (n) accept that any decision on a request for access to the European Parliament's premises is the sole prerogative of the Parliament and that registration shall not confer an automatic entitlement to an access pass.

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ANNEX IV

**PROCEDURES FOR ALERTS AND FOR THE INVESTIGATION AND TREATMENT OF COMPLAINTS**

**I. Alerts**

Any person may lodge an alert to the JTRS by completing the standard contact form, available on the website of the register, with regard to information contained in the register and non-eligible registrations.

Where alerts are made about information contained in the register, they will be treated as allegations of non-compliance with point (d) of the code of conduct set out in Annex III <sup>(1)</sup>. The registrant concerned will be asked to update the information or explain to the JTRS why the information does not need to be updated. Where the registrant concerned does not cooperate, measures as outlined in the table of measures below (rows 2 to 4), may be applied.

**II. Complaints**

*Stage 1: Submitting a complaint*

1. Any person may submit a complaint to the JTRS by completing a standard form available on the website of the register. That form shall contain the following information:
  - (a) the registrant that is the subject of the complaint;
  - (b) the name and contact details of the complainant;
  - (c) details of the alleged non-compliance with the code of conduct, including possible documents or other materials supporting the complaint, an indication of whether any harm was caused to the complainant and grounds for suspecting intentional non-compliance.

Anonymous complaints shall not be considered.

2. The complaint shall specify the clauses of the code of conduct which the complainant alleges have not been complied with. Any complaint, where the non-compliance is, from the outset, deemed to be clearly unintentional by the JTRS, may be re-qualified by the JTRS as an 'alert'.
3. The code of conduct shall apply exclusively to relations between interest representatives and the EU institutions and may not be used to regulate relations between third parties or between registrants.

*Stage 2: Admissibility*

4. On reception of the complaint the JTRS shall:
  - (a) acknowledge receipt of the complaint to the complainant within five working days;
  - (b) determine whether the complaint falls within the scope of the register, as outlined in the code of conduct set out in Annex III and stage 1 above;
  - (c) verify any evidence adduced to support the complaint, whether this takes the form of documents, other materials or personal statements; in principle any material evidence shall be sourced from the registrant concerned, from a document issued by a third party or from publicly available sources. Mere value judgments presented by the complainant shall not be considered to be evidence;
  - (d) on the basis of the analyses referred to in points (b) and (c), decide on the admissibility of the complaint.
5. If the complaint is deemed inadmissible, the JTRS shall inform the complainant in writing, stating the reasons for the decision.
6. If the complaint is deemed admissible, both the complainant and the registrant concerned shall be informed by the JTRS of the decision and of the procedure to be followed, as set out below.

<sup>(1)</sup> Point (d) requires interest representatives, in their relations with the EU institutions and their Members, officials and other staff, to 'ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities covered by the register is complete, up-to-date and not misleading' and to 'accept that all information provided is subject to review and agree to cooperate with administrative requests for complementary information and updates';.

*Stage 3: Handling of an admissible complaint — examination and provisional measures*

7. The registrant concerned shall be notified by the JTRS of the content of the complaint and of the clause(s) allegedly not complied with and shall be invited at the same time to submit a position in response to that complaint within 20 working days. In support of that position, and within the same timeframe, a memorandum produced by a representative professional organisation may also be submitted by the registrant, in particular for regulated professions or organisations subject to a professional code of conduct.
8. Non-compliance with the deadline indicated in paragraph 7 shall lead to a temporary suspension of the registrant concerned from the register until cooperation is resumed.
9. All information collected during the investigation shall be examined by the JTRS which may decide to hear the registrant concerned, or the complainant, or both.
10. If examination of the material provided shows the complaint to be unfounded, the JTRS shall inform both the registrant concerned and the complainant of the decision to that effect, stating the reasons for the decision.
11. If the complaint is upheld, the registrant concerned shall be temporarily suspended from the register pending the taking of steps to address the issue (see Stage 4 below) and may be subject to a number of additional measures including removal from the register and withdrawal, where applicable, of any authorisation for access to the European Parliament's premises in accordance with the internal procedures of that institution (see Stage 5 and rows 2-4 in the table of measures below), notably in cases of non-cooperation.

*Stage 4: Handling of an admissible complaint — resolution*

12. Where a complaint is upheld and problematic issues are identified, the JTRS will take all necessary steps in co-operation with the registrant concerned to address and resolve the issue.
13. If the registrant concerned cooperates, a reasonable period of time shall be allocated by the JTRS, on a case-by-case basis, to achieve resolution.
14. Where a possible resolution of the issue has been identified, and the registrant concerned cooperates to give effect to that resolution, the registration pertaining to that registrant shall be reactivated, and the complaint closed. The JTRS shall inform both the registrant concerned and the complainant of the decision to that effect, stating the reasons for the decision.
15. Where a possible resolution of the issue has been identified, and the registrant concerned does not cooperate to give effect to that resolution, the registration pertaining to that registrant shall be deleted (see rows 2 and 3 of the table of measures below). The JTRS shall inform both the registrant concerned and the complainant of the decision to that effect, stating the reasons for the decision.
16. Where a possible resolution of the issue requires a decision from a third party, including an authority in a Member State, the final decision by the JTRS shall be suspended until such time as that decision has been taken.
17. If the registrant does not cooperate within 40 working days of the notification of the complaint under paragraph 7, measures for non-compliance shall be applied (see paragraphs 19 to 22 of Stage 5 and rows 2 to 4 of the table of measures below).

*Stage 5: Handling of an admissible complaint — measures to be applied in the event of non-compliance with the code of conduct*

18. Where immediate corrections are made by the registrant concerned, both the complainant and the registrant concerned will receive from the JTRS written acknowledgement of the facts and their corrections (see row 1 of the table of measures below).
19. Failure to react by the registrant concerned within the deadline of 40 days set out in paragraph 17 shall result in removal from the register (see row 2 of the table of measures below) and loss of access to any incentives linked to registration.
20. Where inappropriate behaviour has been identified, the registrant concerned shall be removed from the register (see row 3 of the table of measures below) and shall lose any incentives linked to registration.
21. In cases referred to in paragraphs 19 and 20, the registrant concerned may re-register, if the grounds leading to removal have been remedied.

22. Where either non-cooperation or inappropriate behaviour are deemed to be repeated and deliberate, or where serious non-compliance has been identified (see row 4 of the table of measures below), a decision to prohibit re-registration for a time period of either one year or two years (depending on the gravity of the case) shall be adopted by the JTRS.
23. Any measure adopted under paragraphs 18 to 22 or rows 1 to 4 in the table of measures below shall be notified by the JTRS to the registrant concerned and to the complainant.
24. In cases where a measure adopted by the JTRS results in a long-term removal from the register (see row 4 in the table of measures below), the registrant concerned may — within 20 working days of the notification of the measure — submit a reasoned request for re-examination of that measure to the Secretaries-General of the European Parliament and of the European Commission.
25. Upon expiry of the 20 days deadline or after the Secretaries-General have taken a final decision, the relevant Vice-President of the European Parliament and the relevant Vice-President of the European Commission shall be informed and the measure shall be mentioned publicly in the register.
26. Where a decision on prohibiting re-registration for a certain time period entails a withdrawal of the possibility of requesting authorisation to access the European Parliament's premises as an interest representative, a proposal by the Secretary-General of the European Parliament shall be submitted to the College of Quaestors, who shall be invited to authorise the withdrawal of the related access authorisation held by the individual or individuals concerned for that time period.
27. In its decisions on applicable measures under this Annex, the JTRS shall have due regard to the principles of proportionality and good administration. The JTRS shall operate under the coordination of a Head of Unit in the Secretariat-General of the European Commission, and under the authority of the Secretaries-General of the European Parliament and the European Commission, who shall be kept duly informed.

**Table of measures available in the event of non-compliance with the code of conduct**

	Type of non-compliance (numbers refer to the paragraphs above)	Measure	Publication of measure in the register	Formal decision to withdraw access to European Parliament premises
1	Non-compliance, immediately corrected (18)	Written notification acknowledging the facts and their correction.	No	No
2	Non-cooperation with JTRS (19 and 21)	Removal from the register, de-activation of the authorisation for access to European Parliament premises and loss of other incentives	No	No
3	Inappropriate behaviour (20 and 21)	Removal from the register, de-activation of the authorisation for access to European Parliament premises and loss of other incentives.	No	No
4	Repeated and deliberate non-cooperation or repeated inappropriate behaviour (22) and/or serious non-compliance.	a) Removal from the register for one year, and formal withdrawal of the authorisation for access to European Parliament premises (as an accredited interest group representative); b) Removal from the register for two years and formal withdrawal of the authorisation for access to European Parliament premises (as an accredited interest group representative).	Yes, by decision of the Secretaries-General of the European Parliament and of the European Commission.	Yes, by decision of College of Quaestors

**REGULATION (EC) No 1049/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 30 May 2001  
regarding public access to European Parliament, Council and Commission documents**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 255(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Acting in accordance with the procedure referred to in Article  
251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.
- (2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty and in the Charter of Fundamental Rights of the European Union.
- (3) The conclusions of the European Council meetings held at Birmingham, Edinburgh and Copenhagen stressed the need to introduce greater transparency into the work of the Union institutions. This Regulation consolidates the initiatives that the institutions have already taken with a view to improving the transparency of the decision-making process.
- (4) The purpose of this Regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty.
- (5) Since the question of access to documents is not covered by provisions of the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, the European Parliament, the Council and the Commission should, in accordance with Declaration No 41 attached to the Final Act of the Treaty of Amsterdam, draw guidance from

this Regulation as regards documents concerning the activities covered by those two Treaties.

- (6) Wider access should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers, while at the same time preserving the effectiveness of the institutions' decision-making process. Such documents should be made directly accessible to the greatest possible extent.
- (7) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. Each institution should respect its security rules.
- (8) In order to ensure the full application of this Regulation to all activities of the Union, all agencies established by the institutions should apply the principles laid down in this Regulation.
- (9) On account of their highly sensitive content, certain documents should be given special treatment. Arrangements for informing the European Parliament of the content of such documents should be made through interinstitutional agreement.
- (10) In order to bring about greater openness in the work of the institutions, access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions, but also to documents received by them. In this context, it is recalled that Declaration No 35 attached to the Final Act of the Treaty of Amsterdam provides that a Member State may request the Commission or the Council not to communicate to third parties a document originating from that State without its prior agreement.
- (11) In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks. In assessing the exceptions, the institutions should take account of the principles in Community legislation concerning the protection of personal data, in all areas of Union activities.
- (12) All rules concerning access to documents of the institutions should be in conformity with this Regulation.

<sup>(1)</sup> OJ C 177 E, 27.6.2000, p. 70.

<sup>(2)</sup> Opinion of the European Parliament of 3 May 2001 (not yet published in the Official Journal) and Council Decision of 28 May 2001.

- (13) In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, with the additional possibility of court proceedings or complaints to the Ombudsman.
- (14) Each institution should take the measures necessary to inform the public of the new provisions in force and to train its staff to assist citizens exercising their rights under this Regulation. In order to make it easier for citizens to exercise their rights, each institution should provide access to a register of documents.
- (15) Even though it is neither the object nor the effect of this Regulation to amend national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, Member States should take care not to hamper the proper application of this Regulation and should respect the security rules of the institutions.
- (16) This Regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies.
- (17) In accordance with Article 255(3) of the EC Treaty, each institution lays down specific provisions regarding access to its documents in its rules of procedure. Council Decision 93/731/EC of 20 December 1993 on public access to Council documents <sup>(1)</sup>, Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents <sup>(2)</sup>, European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents <sup>(3)</sup>, and the rules on confidentiality of Schengen documents should therefore, if necessary, be modified or be repealed,

HAVE ADOPTED THIS REGULATION:

#### Article 1

##### Purpose

The purpose of this Regulation is:

- (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission (hereinafter referred to as 'the institutions') documents provided for in Article 255 of the EC Treaty in such a way as to ensure the widest possible access to documents,

- (b) to establish rules ensuring the easiest possible exercise of this right, and
- (c) to promote good administrative practice on access to documents.

#### Article 2

##### Beneficiaries and scope

- Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation.
- The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.
- This Regulation shall apply to all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union.
- Without prejudice to Articles 4 and 9, documents shall be made accessible to the public either following a written application or directly in electronic form or through a register. In particular, documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with Article 12.
- Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.
- This Regulation shall be without prejudice to rights of public access to documents held by the institutions which might follow from instruments of international law or acts of the institutions implementing them.

#### Article 3

##### Definitions

For the purpose of this Regulation:

- (a) 'document' shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility;
- (b) 'third party' shall mean any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and third countries.

<sup>(1)</sup> OJ L 340, 31.12.1993, p. 43. Decision as last amended by Decision 2000/527/EC (OJ L 212, 23.8.2000, p. 9).

<sup>(2)</sup> OJ L 46, 18.2.1994, p. 58. Decision as amended by Decision 96/567/EC, ECSC, Euratom (OJ L 247, 28.9.1996, p. 45).

<sup>(3)</sup> OJ L 263, 25.9.1997, p. 27.



*Article 4***Exceptions**

1. The institutions shall refuse access to a document where disclosure would undermine the protection of:

- (a) the public interest as regards:
  - public security,
  - defence and military matters,
  - international relations,
  - the financial, monetary or economic policy of the Community or a Member State;
- (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

- commercial interests of a natural or legal person, including intellectual property,
- court proceedings and legal advice,
- the purpose of inspections, investigations and audits,

unless there is an overriding public interest in disclosure.

3. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.

6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

7. The exceptions as laid down in paragraphs 1 to 3 shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. In the case of documents covered by the exceptions relating to privacy or commercial interests and in the case of sensitive documents,

the exceptions may, if necessary, continue to apply after this period.

*Article 5***Documents in the Member States**

Where a Member State receives a request for a document in its possession, originating from an institution, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the attainment of the objectives of this Regulation.

The Member State may instead refer the request to the institution.

*Article 6***Applications**

1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.

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

3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.

*Article 7***Processing of initial applications**

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 2 of this Article.

2. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.

3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

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

#### Article 8

##### Processing of confirmatory applications

1. A confirmatory application shall be handled promptly. Within 15 working days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her, namely instituting court proceedings against the institution and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

3. Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the EC Treaty.

#### Article 9

##### Treatment of sensitive documents

1. Sensitive documents are documents originating from the institutions or the agencies established by them, from Member States, third countries or International Organisations, classified as 'TRÈS SECRET/TOP SECRET', 'SECRET' or 'CONFIDENTIEL' in accordance with the rules of the institution concerned, which protect essential interests of the European Union or of one or more of its Member States in the areas covered by Article 4(1)(a), notably public security, defence and military matters.

2. Applications for access to sensitive documents under the procedures laid down in Articles 7 and 8 shall be handled only by those persons who have a right to acquaint themselves with those documents. These persons shall also, without prejudice to Article 11(2), assess which references to sensitive documents could be made in the public register.

3. Sensitive documents shall be recorded in the register or released only with the consent of the originator.

4. An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected in Article 4.

5. Member States shall take appropriate measures to ensure that when handling applications for sensitive documents the principles in this Article and Article 4 are respected.

6. The rules of the institutions concerning sensitive documents shall be made public.

7. The Commission and the Council shall inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions.

#### Article 10

##### Access following an application

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge.

2. If a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.

3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.

#### Article 11

##### Registers

1. To make citizens' rights under this Regulation effective, each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form. References to documents shall be recorded in the register without delay.

2. For each document the register shall contain a reference number (including, where applicable, the interinstitutional reference), the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 4.

3. The institutions shall immediately take the measures necessary to establish a register which shall be operational by 3 June 2002.

*Article 12***Direct access in electronic form or through a register**

1. The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned.
2. In particular, legislative documents, that is to say, documents drawn up or received in the course of procedures for the adoption of acts which are legally binding in or for the Member States, should, subject to Articles 4 and 9, be made directly accessible.
3. Where possible, other documents, notably documents relating to the development of policy or strategy, should be made directly accessible.
4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.

*Article 13***Publication in the Official Journal**

1. In addition to the acts referred to in Article 254(1) and (2) of the EC Treaty and the first paragraph of Article 163 of the Euratom Treaty, the following documents shall, subject to Articles 4 and 9 of this Regulation, be published in the Official Journal:
  - (a) Commission proposals;
  - (b) common positions adopted by the Council in accordance with the procedures referred to in Articles 251 and 252 of the EC Treaty and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;
  - (c) framework decisions and decisions referred to in Article 34(2) of the EU Treaty;
  - (d) conventions established by the Council in accordance with Article 34(2) of the EU Treaty;
  - (e) conventions signed between Member States on the basis of Article 293 of the EC Treaty;
  - (f) international agreements concluded by the Community or in accordance with Article 24 of the EU Treaty.
2. As far as possible, the following documents shall be published in the Official Journal:
  - (a) initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty or pursuant to Article 34(2) of the EU Treaty;
  - (b) common positions referred to in Article 34(2) of the EU Treaty;

- (c) directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions.

3. Each institution may in its rules of procedure establish which further documents shall be published in the Official Journal.

*Article 14***Information**

1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.
2. The Member States shall cooperate with the institutions in providing information to the citizens.

*Article 15***Administrative practice in the institutions**

1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.
2. The institutions shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents.

*Article 16***Reproduction of documents**

This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

*Article 17***Reports**

1. Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.
2. At the latest by 31 January 2004, the Commission shall publish a report on the implementation of the principles of this Regulation and shall make recommendations, including, if appropriate, proposals for the revision of this Regulation and an action programme of measures to be taken by the institutions.

*Article 18***Application measures**

1. Each institution shall adapt its rules of procedure to the provisions of this Regulation. The adaptations shall take effect from 3 December 2001.

2. Within six months of the entry into force of this Regulation, the Commission shall examine the conformity of Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community <sup>(1)</sup> with this Regulation in order to

ensure the preservation and archiving of documents to the fullest extent possible.

3. Within six months of the entry into force of this Regulation, the Commission shall examine the conformity of the existing rules on access to documents with this Regulation.

*Article 19***Entry into force**

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

It shall be applicable from 3 December 2001.

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

Done at Brussels, 30 May 2001.

*For the European Parliament*

*The President*

N. FONTAINE

*For the Council*

*The President*

B. LEJON

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<sup>(1)</sup> OJ L 43, 15.2.1983, p. 1.

**INTERINSTITUTIONAL AGREEMENT OF 20 NOVEMBER 2002  
BETWEEN THE EUROPEAN PARLIAMENT AND THE COUNCIL CONCERNING  
ACCESS BY THE EUROPEAN PARLIAMENT TO SENSITIVE INFORMATION OF THE  
COUNCIL IN THE FIELD OF SECURITY AND DEFENCE POLICY<sup>1</sup>**

THE EUROPEAN PARLIAMENT AND THE COUNCIL,

Whereas:

(1) Article 21 of the Treaty on European Union states that the Council Presidency shall consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and shall ensure that the views of the European Parliament are duly taken into consideration. That Article also stipulates that the European Parliament shall be kept regularly informed by the Council Presidency and the Commission of the development of the common foreign and security policy. A mechanism should be introduced to ensure that these principles are implemented in this field.

(2) In view of the specific nature and the especially sensitive content of certain highly classified information in the field of security and defence policy, special arrangements should be introduced for the handling of documents containing such information.

(3) In conformity with Article 9(7) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup>, the Council is to inform the European Parliament regarding sensitive documents as defined in Article 9(1) of that Regulation in accordance with arrangements agreed between the institutions.

(4) In most Member States there are specific mechanisms for the transmission and handling of classified information between national governments and parliaments. This Interinstitutional Agreement should provide the European Parliament with treatment inspired by best practices in Member States,

HAVE CONCLUDED THIS INTERINSTITUTIONAL AGREEMENT:

**1. Scope**

1.1. This Interinstitutional Agreement deals with access by the European Parliament to sensitive information, i.e. information classified as "TRÈS SECRET/TOP SECRET", "SECRET" or "CONFIDENTIAL", whatever its origin, medium or state of completion, held by the Council in the field of security and defence policy and the handling of documents so classified.

1.2. Information originating from a third State or international organisation shall be transmitted with the agreement of that State or organisation.

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<sup>1</sup>OJ C 298, 30.11.2002, p. 1.

<sup>2</sup>OJ L 145, 31.5.2001, p. 43.

Where information originating from a Member State is transmitted to the Council without explicit restriction on its dissemination to other institutions other than its classification, the rules in sections 2 and 3 of this Interinstitutional Agreement shall apply. Otherwise, such information shall be transmitted with the agreement of the Member State in question.

In the case of a refusal of the transmission of information originating from a third State, an international organisation or a Member State, the Council shall give the reasons.

1.3. The provisions of this Interinstitutional Agreement shall apply in accordance with applicable law and without prejudice to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry<sup>3</sup> and without prejudice to existing arrangements, especially the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure<sup>4</sup>.

## **2. General rules**

2.1. The two institutions shall act in accordance with their mutual duties of sincere cooperation and in a spirit of mutual trust as well as in conformity with the relevant Treaty provisions. Transmission and handling of the information covered by this Interinstitutional Agreement must have due regard for the interests which classification is designed to protect, and in particular the public interest as regards the security and defence of the European Union or of one or more of its Member States or military and non-military crisis management.

2.2. At the request of one of the persons referred to in point 3.1, the Presidency of the Council or the Secretary-General/High Representative shall inform them with all due despatch of the content of any sensitive information required for the exercise of the powers conferred on the European Parliament by the Treaty on European Union in the field covered by this Interinstitutional Agreement, taking into account the public interest in matters relating to the security and defence of the European Union or of one or more of its Member States or military and non-military crisis management, in accordance with the arrangements laid down in section 3.

## **3. Arrangements for access to and handling of sensitive information**

3.1. In the context of this Interinstitutional Agreement, the President of the European Parliament or the Chairman of the European Parliament's Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy may request that the Presidency of the Council or the Secretary-General/High Representative convey information to this committee on developments in European security and defence policy, including sensitive information to which point 3.3 applies.

3.2. In the event of a crisis or at the request of the President of the European Parliament or of the Chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, such information shall be provided at the earliest opportunity.

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<sup>3</sup>OJ L 113, 19.5.1995, p. 1.

<sup>4</sup>OJ C 172, 18.6.1999, p. 1.

3.3. In this framework, the President of the European Parliament and a special committee chaired by the Chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and composed of four members designated by the Conference of Presidents shall be informed by the Presidency of the Council or the Secretary-General/High Representative of the content of the sensitive information where it is required for the exercise of the powers conferred on the European Parliament by the Treaty on European Union in the field covered by this Interinstitutional Agreement. The President of the European Parliament and the special committee may ask to consult the documents in question on the premises of the Council.

Where this is appropriate and possible in the light of the nature and content of the information or documents concerned, these shall be made available to the President of the European Parliament, who shall select one of the following options:

- (a) information intended for the chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy;
- (b) access to information restricted to the members of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy only;
- (c) discussion in the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, meeting in camera, in accordance with arrangements which may vary by virtue of the degree of confidentiality involved;
- (d) communication of documents from which information has been expunged in the light of the degree of secrecy required.

These options are not applicable if sensitive information is classified as "TRÈS SECRET/TOP SECRET".

As to information or documents classified as "SECRET" or "CONFIDENTIAL", the selection by the President of the European Parliament of one of these options shall be previously agreed with the Council.

The information or documents in question shall not be published or forwarded to any other addressee.

#### **4. Final provisions**

4.1. The European Parliament and the Council, each for its own part, shall take all necessary measures to ensure the implementation of this Interinstitutional Agreement, including the steps required for the security clearance of the persons involved.

4.2. The two institutions are willing to discuss comparable Interinstitutional Agreements covering classified information in other areas of the Council's activities, on the understanding that the provisions of this Interinstitutional Agreement do not constitute a precedent for the Union's or the Community's other areas of activity and shall not affect the substance of any other Interinstitutional Agreements.

4.3. This Interinstitutional Agreement shall be reviewed after two years at the request of either of the two institutions in the light of experience gained in implementing it.

## **Annex**

This Interinstitutional Agreement shall be implemented in conformity with the relevant applicable regulations and in particular with the principle according to which the consent of the originator is a necessary condition for the transmission of classified information as laid down in point 1.2.

Consultation of sensitive documents by the members of the Special Committee of the European Parliament shall take place in a secured room at the Council premises.

This Interinstitutional Agreement shall enter into force after the European Parliament has adopted internal security measures which are in accordance with the principles laid down in point 2.1 and comparable to those of the other institutions in order to guarantee an equivalent level of protection of the sensitive information concerned.



**DECISION OF THE EUROPEAN PARLIAMENT OF 23 OCTOBER 2002  
ON THE IMPLEMENTATION OF THE INTERINSTITUTIONAL AGREEMENT  
GOVERNING EUROPEAN PARLIAMENT ACCESS TO SENSITIVE COUNCIL  
INFORMATION IN THE SPHERE OF SECURITY AND DEFENCE POLICY<sup>1</sup>**

THE EUROPEAN PARLIAMENT,

having regard to Article 9, and in particular paragraphs 6 and 7 thereof, of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>2</sup>,

having regard to point 1 of Annex VII, part A of its Rules of Procedure,<sup>3</sup>

having regard to Article 20 of the Bureau Decision of 28 November 2001 on public access to Parliament documents<sup>4</sup>,

having regard to the Interinstitutional Agreement between the European Parliament and the Council on European Parliament access to sensitive Council information in the sphere of security and defence policy,

having regard to the Bureau proposal,

having regard to the specific nature and the particularly sensitive substance of some highly confidential items of information in the sphere of security and defence policy,

whereas, in accordance with the provisions agreed between the institutions, the Council is required to make information about sensitive documents available to Parliament,

whereas the Members of the European Parliament who sit on the special committee set up by the Interinstitutional Agreement must be cleared for access to sensitive information in accordance with the "need-to-know" principle,

having regard to the need to lay down specific arrangements for receiving, dealing with and safeguarding sensitive information forwarded by the Council, Member States, third States or international organisations,

HAS DECIDED:

**Article 1**

This Decision adopts the additional measures required to implement the Interinstitutional Agreement governing European Parliament access to sensitive Council information in the sphere of security and defence policy.

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<sup>1</sup>OJ C 298, 30.11.2002, p. 4.

<sup>2</sup>OJ L 145, 31.5.2001, p. 43.

<sup>3</sup> Annex now deleted from the Rules of Procedure.

<sup>4</sup>OJ C 374, 29.12.2001, p. 1.

## **Article 2**

Parliament's requests for access to sensitive Council information shall be dealt with by the latter in a manner consistent with its relevant rules. If the documents requested have been drawn up by other institutions, Member States, third countries or international organisations, they shall be forwarded only with the agreement of the institutions, States or organisations concerned.

## **Article 3**

The President of Parliament shall be responsible for the implementation of the Interinstitutional Agreement within the Institution.

In that connection, he/she shall take all the measures required to guarantee that information received directly from the President of the Council or the Secretary-General/High Representative, or information obtained in the course of the consultation of sensitive documents on the Council's premises, is dealt with in a confidential manner.

## **Article 4**

When the President of Parliament or the chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy asks the Council Presidency or the Secretary-General/High Representative to supply sensitive information to the special committee set up by the Interinstitutional Agreement, that information shall be provided as soon as possible. In that connection, Parliament shall fit out a room specially designed for the holding of meetings to deal with sensitive information. The room shall be chosen with a view to guaranteeing a level of protection equivalent to that laid down for this type of meeting by Council Decision 2001/264/EC of 19 March 2001<sup>5</sup> adopting the Council's security regulations.

## **Article 5**

The information meeting chaired by the President of Parliament or by the chairman of the above-mentioned committee shall be held in camera.

With the exception of the four Members appointed by the Conference of Presidents, only those officials who, by virtue of their duties or in accordance with operational requirements, have been cleared and authorised to enter it subject to the "need-to-know" principle shall have access to the meeting room.

## **Article 6**

Pursuant to paragraph 3.3 of the above-mentioned Interinstitutional Agreement, when the President of Parliament or the chairman of the above-mentioned committee decides to request authorisation to consult documents containing sensitive information, that consultation shall be carried out on the Council's premises.

Documents shall be consulted on the spot in whatever version they are available.

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<sup>5</sup>OJ L 101, 11.4.2001, p. 1.

## **Article 7**

The Members of Parliament who are to attend information meetings or have access to sensitive documents shall be the subject of a clearance procedure similar to that undergone by Members of the Council and Members of the Commission. In that connection, the President of Parliament shall take the requisite steps vis-à-vis the competent national authorities.

## **Article 8**

Officials who are to have access to sensitive information shall be cleared in accordance with the provisions laid down for the other institutions. Officials cleared in this way subject to the "need-to-know" principle shall be invited to attend the above-mentioned information meetings or to peruse the documents in question. In that connection, the Secretary-General, after consulting the competent Member State authorities, shall grant clearance on the basis of the security inquiry carried out by those same authorities.

## **Article 9**

The information obtained at such meetings or during the consultation of such documents on the Council's premises shall not be disclosed, disseminated or reproduced, either in full or in part, in any form. By the same token, no recording of particulars relating to the sensitive information provided by the Council shall be authorised.

## **Article 10**

The Members of Parliament designated by the Conference of Presidents to have access to the sensitive information shall be bound by the requirement to maintain confidentiality. Any Member who breaches that requirement shall be replaced on the special committee by another Member designated by the Conference of Presidents. In that connection, the Member guilty of a breach of the requirement may, prior to his/her exclusion from the special committee, be heard by the Conference of Presidents, which shall hold a special meeting in camera. In addition to his/her exclusion from the special committee, the Member responsible for leaking information may, if appropriate, be the subject of judicial proceedings pursuant to the relevant legislation in force.

## **Article 11**

Officials duly cleared to have access to sensitive information in accordance with the "need-to-know" principle shall be bound by the requirement to maintain confidentiality. Any official who breaches that rule shall be the subject of an inquiry conducted under the authority of the President and, if appropriate, disciplinary proceedings in accordance with the Staff Regulations (statut des fonctionnaires). Should judicial proceedings be initiated, the President shall take all the measures required to enable the competent national authorities to implement the appropriate procedures.

## **Article 12**

The Bureau shall be competent to undertake any revision, amendment or interpretation necessitated by the implementation of this Decision.

## **Article 13**

This Decision shall be annexed to Parliament's Rules of Procedure and shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

## II

(Information)

### INTERINSTITUTIONAL AGREEMENTS

#### INTERINSTITUTIONAL AGREEMENT

**of 12 March 2014**

**between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy**

(2014/C 95/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL,

Whereas:

- (1) Article 14(1) of the Treaty on European Union (TEU) provides that the European Parliament jointly with the Council, is to exercise legislative and budgetary functions and that it is to exercise functions of political control and consultation as laid down in the Treaties.
- (2) Article 13(2) TEU provides that each institution is to act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. That provision also stipulates that the institutions are to practice mutual sincere cooperation. Article 295 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Parliament and the Council, inter alia, are to make arrangements for their cooperation and that, to that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.
- (3) The Treaties and, as appropriate, other relevant provisions provide that either in the context of a special legislative procedure or under other decision-making procedures, the Council is to consult or obtain the consent of the European Parliament before adopting a legal act. The Treaties also provide that, in certain cases, the European Parliament is to be informed about the progress or the results of a given procedure or be involved in the evaluation or the scrutiny of certain Union agencies.
- (4) In particular, Article 218(6) TFEU provides that, except where an international agreement relates exclusively to the common foreign and security policy, the Council is to adopt the decision concluding the agreement in question after obtaining the consent of or consulting the European Parliament; all such international agreements which do not relate exclusively to the common foreign and security policy are therefore covered by this Interinstitutional Agreement.
- (5) Article 218(10) of the TFEU provides that the European Parliament is to be immediately and fully informed at all stages of the procedure; that provision also applies to agreements relating to the common foreign and security policy.
- (6) In cases where implementation of the Treaties and, as appropriate, other relevant provisions would require access by the European Parliament to classified information held by the Council, appropriate arrangements governing such access should be agreed upon between the European Parliament and the Council.
- (7) Where the Council decides to grant the European Parliament access to classified information held by the Council in the area of the common foreign and security policy, it either takes ad hoc decisions to that effect or uses the Interinstitutional Agreement of 20 November 2002 between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy<sup>(1)</sup> (hereinafter 'the Interinstitutional Agreement of 20 November 2002'), as appropriate.

<sup>(1)</sup> OJ C 298, 30.11.2002, p. 1.

- (8) The Declaration by the High Representative on political accountability<sup>(1)</sup>, made upon the adoption of Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service<sup>(2)</sup>, states that the High Representative will review and where necessary propose to adjust the existing provisions on access for Members of the European Parliament to classified documents and information in the field of security and defence policy (i.e. the Interinstitutional Agreement of 20 November 2002).
- (9) It is important that the European Parliament be associated with the principles, standards and rules for protecting classified information which are necessary in order to protect the interests of the European Union and of the Member States. Moreover, the European Parliament will be in a position to provide classified information to the Council.
- (10) On 31 March 2011 the Council adopted Decision 2011/292/EU on the security rules for protecting EU classified information<sup>(3)</sup> (hereinafter 'the Council's security rules').
- (11) On 6 June 2011, the Bureau of the European Parliament adopted a Decision concerning the rules governing the treatment of confidential information by the European Parliament<sup>(4)</sup> (hereinafter 'the European Parliament's security rules').
- (12) The security rules of Union institutions, bodies, offices or agencies should together constitute a comprehensive and coherent general framework within the European Union for protecting classified information, and should ensure equivalence of basic principles and minimum standards. The basic principles and minimum standards laid down in the European Parliament's security rules and in the Council's security rules should accordingly be equivalent.
- (13) The level of protection afforded to classified information under the European Parliament's security rules should be equivalent to that afforded to classified information under the Council's security rules.
- (14) The relevant services of the European Parliament's Secretariat and of the General Secretariat of the Council will cooperate closely to ensure that equivalent levels of protection are applied to classified information in both institutions.
- (15) This Agreement is without prejudice to existing and future rules on access to documents adopted in accordance with Article 15(3) TFEU; rules on the protection of personal data adopted in accordance with Article 16(2) TFEU; rules on the European Parliament's right of inquiry adopted in accordance with third paragraph of Article 226 TFEU; and relevant provisions relating to the European Anti-Fraud Office (OLAF),

HAVE AGREED AS FOLLOWS:

#### *Article 1*

#### **Purpose and scope**

This Agreement sets out arrangements governing the forwarding to and handling by the European Parliament of classified information held by the Council, on matters other than those in the area of the common foreign and security policy, which is relevant in order for the European Parliament to exercise its powers and functions. It concerns all such matters, namely:

- (a) proposals subject to a special legislative procedure or to another decision-making procedure under which the European Parliament is to be consulted or is required to give its consent;
- (b) international agreements on which the European Parliament is to be consulted or is required to give its consent pursuant to Article 218(6) TFEU;

<sup>(1)</sup> OJ C 210, 3.8.2010, p. 1.

<sup>(2)</sup> OJ L 201, 3.8.2010, p. 30.

<sup>(3)</sup> OJ L 141, 27.5.2011, p. 17.

<sup>(4)</sup> OJ C 190, 30.6.2011, p. 2.

- (c) negotiating directives for international agreements referred to in point (b);
- (d) activities, evaluation reports or other documents on which the European Parliament is to be informed; and
- (e) documents on the activities of those Union agencies in the evaluation or scrutiny of which the European Parliament is to be involved.

#### *Article 2*

##### **Definition of 'classified information'**

For the purposes of this Agreement, 'classified information' shall mean any or all of the following:

- (a) 'EU classified information' (EUCI) as defined in the European Parliament's security rules and in the Council's security rules and bearing one of the following security classification markings:
  - RESTREINT UE/EU RESTRICTED,
  - CONFIDENTIEL UE/EU CONFIDENTIAL,
  - SECRET UE/EU SECRET,
  - TRÈS SECRET UE/EU TOP SECRET;
- (b) classified information provided to the Council by Member States and bearing a national security classification marking equivalent to one of the security classification markings used for EUCI listed in point (a);
- (c) classified information provided to the European Union by third States or international organisations which bears a security classification marking equivalent to one of the security classification markings used for EUCI listed in point (a), as provided for in the relevant security of information agreements or administrative arrangements.

#### *Article 3*

##### **Protection of classified information**

1. The European Parliament shall protect, in accordance with its security rules and with this Agreement, any classified information provided to it by the Council.
2. As equivalence is to be maintained between the basic principles and minimum standards for protecting classified information laid down by the European Parliament and by the Council in their respective security rules, the European Parliament shall ensure that the security measures in place in its premises afford a level of protection to classified information equivalent to that afforded to such information on Council premises. The relevant services of the European Parliament and the Council shall cooperate closely to that effect.
3. The European Parliament shall take the appropriate measures to ensure that classified information provided to it by the Council shall not:
  - (a) be used for purposes other than those for which access was provided;
  - (b) be disclosed to persons other than those to whom access has been granted in accordance with Articles 4 and 5, or made public;
  - (c) be released to other Union institutions, bodies, offices or agencies, or to Member States, third States or international organisations without the prior written consent of the Council.
4. The Council may grant the European Parliament access to classified information which originates in other Union institutions, bodies, offices or agencies, or in Member States, third States or international organisations only with the prior written consent of the originator.

*Article 4*

**Personnel security**

1. Access to classified information shall be granted to Members of the European Parliament in accordance with Article 5(4).
2. Where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent, access may be granted only to Members of the European Parliament authorised by the President of the European Parliament:
  - (a) who have been security-cleared in accordance with the European Parliament's security rules; or
  - (b) for whom notification has been made by a competent national authority that they are duly authorised by virtue of their functions in accordance with national laws and regulations.

Notwithstanding the first subparagraph, where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent, access may also be granted to those Members of the European Parliament determined in accordance with Article 5(4) who have signed a solemn declaration of non-disclosure in accordance with the European Parliament's security rules. The Council shall be informed of the names of the Members of the European Parliament granted access under this subparagraph.

3. Before being granted access to classified information, Members of the European Parliament shall be briefed on and acknowledge their responsibilities to protect such information in accordance with the European Parliament's security rules, and briefed on the means of ensuring such protection.
4. Access to classified information shall be granted only to those officials of the European Parliament and other Parliament employees working for political groups who:
  - (a) have been designated in advance as having a need-to-know by the relevant parliamentary body or office-holder determined in accordance with Article 5(4);
  - (b) have been security-cleared to the appropriate level in accordance with the European Parliament's security rules where the information is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent; and
  - (c) have been briefed and received written instructions on their responsibilities for protecting such information as well as on the means of ensuring such protection, and have signed a declaration acknowledging receipt of those instructions and undertaking to comply with them in accordance with the European Parliament's security rules.

*Article 5*

**Procedure for accessing classified information**

1. The Council shall provide classified information as referred to in Article 1 to the European Parliament where it is under a legal obligation to do so pursuant to the Treaties or to legal acts adopted on the basis of the Treaties. The parliamentary bodies or office-holders referred to in paragraph 3 may also present a written request for such information.
2. In other cases, the Council may provide classified information as referred to in Article 1 to the European Parliament either at its own initiative or on written request from one of the parliamentary bodies or office-holders referred to in paragraph 3.
3. The following parliamentary bodies or office-holders may present written requests to the Council:
  - (a) the President;
  - (b) the Conference of Presidents;
  - (c) the Bureau;
  - (d) the chair(s) of the committee(s) concerned;
  - (e) the rapporteur(s) concerned.

Requests from other Members of the European Parliament shall be made via one of the parliamentary bodies or office-holders referred to in the first subparagraph.

The Council shall respond to such requests without delay.

4. Where the Council is under a legal obligation to, or has decided to, grant the European Parliament access to classified information, it shall determine the following in writing before that information is forwarded, together with the relevant body or office-holder as listed in paragraph 3:

(a) that such access may be granted to one or more of the following:

- (i) the President;
- (ii) the Conference of Presidents;
- (iii) the Bureau;
- (iv) the chair(s) of the committee(s) concerned;
- (v) the rapporteur(s) concerned;
- (vi) all or certain members of the committee(s) concerned; and

(b) any specific handling arrangements for protecting such information.

#### *Article 6*

#### **Registration, storage, consultation and discussion of classified information in the European Parliament**

1. Classified information provided by the Council to the European Parliament, where it is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent:

- (a) shall be registered for security purposes to record its life-cycle and ensure its traceability at all times;
- (b) shall be stored in a secure area which meets the minimum standards of physical security laid down in the Council's security rules and the European Parliament's security rules, which shall be equivalent; and
- (c) may be consulted by the relevant Members of the European Parliament, officials of the European Parliament and other Parliament employees working for political groups referred to in Article 4(4) and Article 5(4) only in a secure reading room within the European Parliament's premises. In this case, the following conditions shall apply:
  - (i) the information shall not be copied by any means, such as photocopying or photographing;
  - (ii) no notes shall be taken; and
  - (iii) no electronic communication devices may be taken into the room.

2. Classified information provided by the Council to the European Parliament, where it is classified at the level RESTREINT UE/EU RESTRICTED or its equivalent, shall be handled and stored in accordance with the European Parliament's security rules which shall afford a level of protection for such classified information equivalent to that of the Council.

Notwithstanding the first subparagraph, for a period of 12 months following the entry into force of this Agreement, information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent shall be handled and stored in accordance with paragraph 1. Access to such classified information shall be governed by points (a) and (c) of Article 4(4) and by Article 5(4).

3. Classified information may be handled only on communication and information systems which have been duly accredited or approved in accordance with standards equivalent to those laid down in the Council's security rules.

4. Classified information provided orally to recipients in the European Parliament shall be subject to the equivalent level of protection as that afforded to classified information in written form.



5. Notwithstanding point (c) of paragraph 1 of this Article, information classified up to the level of CONFIDENTIAL UE/EU CONFIDENTIAL or its equivalent provided by the Council to the European Parliament may be discussed at meetings held in camera and attended only by Members of the European Parliament and those officials of the European Parliament and other Parliament employees working for political groups who have been granted access to the information in accordance with Article 4(4) and Article 5(4). The following conditions shall apply:

- documents shall be distributed at the beginning of the meeting and collected again at the end,
- documents shall not be copied by any means, such as photocopying or photographing,
- no notes shall be taken,
- no electronic communication devices may be taken into the room, and
- the minutes of the meeting shall make no mention of the discussion of the item containing classified information.

6. Where meetings are necessary to discuss information classified at the level SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent, specific arrangements shall be agreed on a case-by-case basis between the European Parliament and the Council.

#### *Article 7*

##### **Breach of security, loss or compromise of classified information**

1. In the case of a proven or suspected loss or compromise of classified information provided by the Council, the Secretary-General of the European Parliament shall immediately inform the Secretary-General of the Council thereof. The Secretary-General of the European Parliament shall conduct an investigation and shall inform the Secretary-General of the Council of the results of the investigation and of measures taken to prevent a recurrence. Where a Member of the European Parliament is concerned, the President of the European Parliament shall act together with the Secretary-General of the European Parliament.

2. Any Member of the European Parliament who is responsible for a breach of the provisions laid down in the European Parliament's security rules or in this Agreement may be liable to measures and penalties in accordance with Rules 9(2) and 152 to 154 of the European Parliament's Rules of Procedure.

3. Any official of the European Parliament or other Parliament employee working for a political group who is responsible for a breach of the provisions laid down in the European Parliament's security rules or in this Agreement may be liable to the penalties set out in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(1)</sup>.

4. Persons responsible for losing or compromising classified information may be liable to disciplinary and/or legal action in accordance with the applicable laws, rules and regulations.

#### *Article 8*

##### **Final provisions**

1. The European Parliament and the Council, each for its own part, shall take all necessary measures to ensure implementation of this Agreement. They shall cooperate to that effect, in particular by organising visits to monitor the implementation of the security-technical aspects of this Agreement.

2. The relevant services of the European Parliament's Secretariat and of the General Secretariat of the Council shall consult each other before either institution modifies its respective security rules, in order to ensure that equivalence of basic principles and minimum standards for protecting classified information is maintained.

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<sup>(1)</sup> OJ L 56, 4.3.1968, p. 1.

3. Classified information shall be provided to the European Parliament under this Agreement once the Council, together with the European Parliament, has determined that equivalence has been achieved between the basic principles and minimum standards for protecting classified information in the European Parliament's and in the Council's security rules, on the one hand, and between the level of protection afforded to classified information in the premises of the European Parliament and of the Council, on the other.

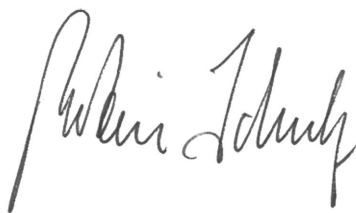
4. This Agreement may be reviewed at the request of either institution in the light of experience in implementing it.

5. This Agreement shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at Brussels and at Strasbourg, 12 March 2014.

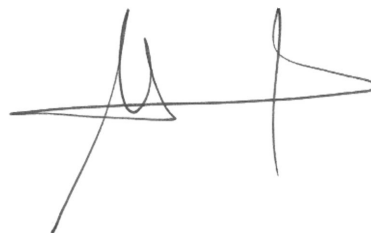
*For the European Parliament*

*The President*



*For the Council*

*The President*



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II

*(Information)*

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

EUROPEAN PARLIAMENT

DECISION OF THE BUREAU OF THE EUROPEAN PARLIAMENT

of 15 April 2013

**concerning the rules governing the treatment of confidential information by the European  
Parliament**

(2014/C 96/01)

THE BUREAU OF THE EUROPEAN PARLIAMENT,

Having regard to Rule 23(12) of the Rules of Procedure of the European Parliament,

Whereas:

- (1) In the light of the Framework Agreement on relations between the European Parliament and the European Commission <sup>(1)</sup> signed on 20 October 2010 ('the Framework Agreement') and the Interinstitutional Agreement between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the Common Foreign and Security Policy <sup>(2)</sup> signed on 12 March 2014 ('the Interinstitutional Agreement'), it is necessary to lay down specific rules on the treatment of confidential information by the European Parliament.
- (2) The Lisbon Treaty assigns new tasks to the European Parliament and, in order to develop Parliament's activities in those areas which require a degree of confidentiality, it is necessary to lay down basic principles, minimum standards of security and appropriate procedures for the treatment by the European Parliament of confidential, including classified, information.
- (3) The rules laid down in this Decision aim at ensuring equivalent standards of protection and compatibility with the rules adopted by other institutions, bodies, offices and agencies established by virtue or on the basis of the Treaties or by Member States, in order to facilitate the smooth functioning of the decision-making process of the European Union.
- (4) The provisions of this Decision are without prejudice to current and future rules on access to documents adopted in accordance with Article 15 of the Treaty on the Functioning of the European Union (TFEU).

<sup>(1)</sup> OJ L 304, 20.11.2010, p. 47.

<sup>(2)</sup> OJ C 95, 1.4.2014, p. 1.

- (5) The provisions of this Decision are without prejudice to current and future rules on the protection of personal data adopted in accordance with Article 16 TFEU,

HAS ADOPTED THIS DECISION:

#### *Article 1*

### **Objective**

This Decision governs the management and handling of confidential information by the European Parliament, including the creation, reception, forwarding and storage of such information, with a view to the appropriate protection of its confidential nature. It implements, the Interinstitutional Agreement and the Framework Agreement, in particular Annex II thereto.

#### *Article 2*

### **Definitions**

For the purposes of this Decision:

- (a) 'information' means any written or oral information, whatever the medium and whoever the author may be;
- (b) 'confidential information' means 'classified information', and non-classified 'other confidential information';
- (c) 'classified information' means 'EU classified information' and 'equivalent classified information';
- (d) 'EU classified information' (EUCI) means any information and material, classified as 'TRÈS SECRET UE/EU TOP SECRET', 'SECRET UE/EU SECRET', 'CONFIDENTIEL UE/EU CONFIDENTIAL' or 'RESTREINT UE/EU RESTRICTED', unauthorised disclosure of which could cause varying degrees of prejudice to Union interests or to those of one or more of its Member States, whether or not such information originates within the institutions, bodies, offices or agencies established by virtue or on the basis of the Treaties. In this regard, information and material classified at the level:
  - 'TRÈS SECRET UE/EU TOP SECRET' is information and material the unauthorised disclosure of which could cause exceptionally grave prejudice to the essential interests of the Union or of one or more of the Member States;
  - 'SECRET UE/EU SECRET' is information and material the unauthorised disclosure of which could seriously harm the essential interests of the Union or of one or more of the Member States;
  - 'CONFIDENTIEL UE/EU CONFIDENTIAL' is information and material the unauthorised disclosure of which could harm the essential interests of the Union or of one or more of the Member States;
  - 'RESTREINT UE/EU RESTRICTED' is information and material the unauthorised disclosure of which could be disadvantageous to the interests of the Union or of one or more of the Member States;
- (e) 'equivalent classified information' means classified information issued by Member States, third States or international organisations which bears a security classification marking equivalent to one of the security classification markings used for EUCI and which has been forwarded to the European Parliament by the Council or the Commission;

- (f) 'other confidential information' means any other non-classified confidential information, including information covered by data protection rules or by the obligation of professional secrecy, created in the European Parliament or forwarded to the European Parliament by other institutions, bodies, offices and agencies established by virtue or on the basis of the Treaties or by Member States;
- (g) 'document' means any recorded information, regardless of its physical form or characteristics;
- (h) 'material' means any document or item of machinery or equipment, either manufactured or in the process of manufacture;
- (i) 'need to know' means the need of a person to have access to confidential information in order to be able to perform an official function or a task;
- (j) 'authorisation' means a decision adopted by the President, if it concerns Members of the European Parliament, or by the Secretary-General, if it concerns officials of the European Parliament and other European Parliament employees working for political groups, to grant an individual access to classified information up to a specific level, on the basis of a positive result of a security screening (vetting) carried out by a national authority under national law and pursuant to the provisions laid down in Annex I, Part 2;
- (k) 'downgrading' means a reduction in the level of classification;
- (l) 'declassification' means the removal of any classification;
- (m) 'marking' means a sign affixed to 'other confidential information' intended to identify predefined specific instructions about its handling or the field covered by a given document. It may also be affixed to classified information, in order to impose additional requirements for its handling;
- (n) 'unmarking' means the removal of any marking;
- (o) 'originator' means the duly authorised author of confidential information;
- (p) 'security notices' means the implementing measures laid down in Annex II;
- (q) 'handling instructions' means technical instructions issued to the European Parliament's services concerning the management of confidential information.

### Article 3

#### Basic principles and minimum standards

1. The treatment of confidential information by the European Parliament shall follow the basic principles and minimum standards laid down in Annex I, Part 1.
2. The European Parliament shall set up an information security management system (ISMS) in accordance with those basic principles and minimum standards. The ISMS shall consist of the security notices, the handling instructions and the relevant Rules of Procedure. It shall aim at facilitating parliamentary and administrative work, while ensuring the protection of any confidential information processed by the European Parliament, in full respect of the rules established by the originator of such information as laid down in the security notices.

The processing of confidential information by means of automated communication and information systems (CIS) of the European Parliament shall be implemented in accordance with the concept of information assurance (IA), as provided for in security notice 3.

3. Members of the European Parliament may consult classified information up to and including the level RESTREINT UE/EU RESTRICTED without security clearance.

4. Where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent, access shall be granted to those Members of the European Parliament who have been authorised by the President pursuant to paragraph 5 or after having signed a solemn declaration of non-disclosure of the content of that information to third persons, of compliance with the obligation to protect information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL and of acknowledgement of the consequences of any failure to do so.

5. Where the information concerned is classified at the level SECRET UE/EU SECRET or TRÈS SECRET/EU TOP SECRET or its equivalent, access shall be granted to those Members of the European Parliament who are authorised by the President after:

- (a) they have been security-cleared in accordance with Annex I, Part 2, of this Decision, or
- (b) a notification has been received from a competent national authority that the Members concerned are duly authorised by virtue of their functions in accordance with national law.

6. Before being granted access to classified information, Members of the European Parliament shall be briefed on, and shall acknowledge, their responsibilities regarding the protection of such information in accordance with Annex I. They shall also be briefed on the means of ensuring such protection.

7. Officials of the European Parliament and other European Parliament employees working for political groups may consult confidential information if they have an established 'need to know', and may consult classified information above the level RESTREINT UE/EU RESTRICTED if they hold the appropriate level of security clearance. Access to classified information shall be granted only if they have been briefed on, and received written instructions concerning, their responsibilities regarding the protection of such information, as well as the means of ensuring such protection, and if they have signed a declaration acknowledging receipt of those instructions and undertaking to comply with them in accordance with the current rules.

#### *Article 4*

### **Creation of confidential information and administrative handling by the European Parliament**

1. The President of the European Parliament, the chairs of the parliamentary committees concerned and the Secretary-General and/or any person duly authorised by him/her in writing may originate confidential information and/or classify information as provided for in the security notices.
2. When creating classified information, the originator shall apply the appropriate level of classification in line with the international standards and definitions set out in Annex I. The originator shall also determine, as a general rule, the addressees who are to be authorised to consult the information commensurate to the level of classification. This information shall be communicated to the Classified Information Unit (CIU) when the document is deposited with the CIU.
3. 'Other confidential information' covered by professional secrecy shall be dealt with in accordance with Annexes I and II and the handling instructions.

#### *Article 5*

### **Reception of confidential information by the European Parliament**

1. Confidential information received by the European Parliament shall be communicated as follows:
  - (a) information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information': to the secretariat of the parliamentary body/office-holder which submitted the request therefor, or directly to the CIU;
  - (b) information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent: to the CIU.

2. The registration, storage and traceability of confidential information shall be dealt with, as the case may be, either by the secretariat of the parliamentary body/office-holder who received the information or by the CIU.
3. The agreed arrangements to be established by common accord with a view to preserving the confidentiality of the information, in the case of confidential information communicated by the Commission pursuant to point 3.2 of Annex II to the Framework Agreement, or in the case of classified information forwarded by the Council pursuant to Article 5(4) of the Interinstitutional Agreement, shall be deposited, together with the confidential information, at the secretariat of the parliamentary body/office-holder or at the CIU, as the case may be.
4. The arrangements referred to in paragraph 3 may also be applied *mutatis mutandis* for the communication of confidential information by other institutions, bodies, offices and agencies established by virtue or on the basis of the Treaties or by Member States.
5. In order to ensure a level of protection commensurate with the level of classification TRÈS SECRET UE/EU TOP SECRET or its equivalent, the Conference of Presidents shall set up an oversight committee. Information classified at the level TRÈS SECRET UE/EU TOP SECRET or its equivalent shall be communicated to the European Parliament subject to further arrangements, to be agreed between the European Parliament and the Union Institution from whom the information is received.

#### *Article 6*

### **Communication of classified information by the European Parliament to third parties**

The European Parliament may, subject to the prior written consent of the originator or the Union Institution, which has communicated the classified information to the European Parliament, as the case may be, forward such classified information to third parties, on condition that they ensure that, when such information is handled, rules equivalent to those laid down in this Decision are respected within their services and premises.

#### *Article 7*

### **Secure facilities**

1. For the purposes of the management of confidential information, the European Parliament shall establish a Secure Area and Secure Reading Rooms.
2. The Secure Area shall provide facilities for the registration, consultation, archiving, transmission and handling of classified information. It shall comprise, *inter alia*, a reading room and a meeting room for the consultation of classified information and shall be managed by the CIU.
3. Outside the Secure Area, Secure Reading Rooms may be created, in order to allow for the consultation of information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent, and of 'other confidential information'. Those Secure Reading Rooms shall be managed by the competent services of the secretariat of the parliamentary body/office-holder or by the CIU, as the case may be. They shall not contain photocopying machines, telephones, fax facilities, scanners or any other technical equipment for the reproduction or transmission of documents.

#### *Article 8*

### **Registration, handling and storage of confidential information**

1. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' shall be registered and stored by the competent services of the secretariat of the parliamentary body/office-holder or by the CIU, depending on who received the information.

2. The following conditions shall apply to the handling of information classified at the level RESTREINT EU/EU RESTRICTED or its equivalent and 'other confidential information':

- (a) documents shall be handed over in person to the head of the secretariat, who shall register them and provide an acknowledgement of receipt;
- (b) when not actually being used, such documents shall be kept in a locked location, under the responsibility of the secretariat;
- (c) in no case may the information be saved on another medium or transmitted to any person. Such documents may only be duplicated by means of appropriately accredited equipment as defined in the security notices;
- (d) access to such information shall be restricted to those designated by the originator or by the Union Institution which communicated the information to the European Parliament, in accordance with the arrangements referred to in Article 4(2) or Article 5(3), (4) and (5);
- (e) the secretariat of the parliamentary body/office-holder shall keep a record of the persons who have consulted the information, and of the date and time of such consultation, and shall transmit the record to the CIU at the time when the information is deposited with the CIU.

3. Information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent shall be registered, handled and stored by the CIU in the Secure Area, in accordance with the specific level of classification and as defined in the security notices.

4. In the event of a breach of the rules set out in paragraphs 1 to 3, the responsible official of the secretariat of the parliamentary body/office-holder or of the CIU, as the case may be, shall inform the Secretary-General, who shall refer the matter to the President if a Member of the European Parliament is concerned.

#### *Article 9*

#### **Access to secure facilities**

1. Only the following persons shall have access to the Secure Area:

- (a) persons who, pursuant to Article 3(4) to (7), are authorised to consult the information held there and who have submitted an application pursuant to Article 10(1);
- (b) persons who, pursuant to Article 4(1), are authorised to create classified information and who have submitted an application pursuant to Article 10(1);
- (c) the European Parliament's officials of the CIU;
- (d) the European Parliament officials responsible for managing the CIS;
- (e) European Parliament officials responsible for security and fire safety, when necessary;
- (f) cleaning staff, but only in the presence of, and under close surveillance by, an official of the CIU.

2. The CIU may deny access to the Secure Area to any person not authorised to enter. Any objection challenging such a denial of access shall be submitted to the President, in the case of a request for access by a Member of the European Parliament, and to the Secretary-General in other cases.

3. The Secretary-General may authorise a meeting for a limited number of persons in the meeting room located within the Secure Area.



4. Only the following persons shall have access to a Secure Reading Room:
  - (a) Members of the European Parliament, officials of the European Parliament and other European Parliament employees working for political groups, duly identified for the purposes of consultation or creation of confidential information;
  - (b) the European Parliament officials responsible for managing the CIS, officials of the secretariat of the parliamentary body/office-holder which received the information, and officials of the CIU;
  - (c) where necessary, European Parliament officials responsible for security and fire safety;
  - (d) cleaning staff, but only in the presence of, and under close surveillance by, an official working in the secretariat of the parliamentary body/office-holder or in the CIU, as the case may be.
5. The competent secretariat of the parliamentary body/office-holder or the CIU, as the case may be, may deny access to a Secure Reading Room to any person not authorised to enter. Any objection challenging such a denial of access shall be submitted to the President, in the case of a request for access by a Member of the European Parliament, and to the Secretary-General in other cases.

#### Article 10

##### **Consultation or creation of confidential information in secure facilities**

1. Any person wishing to consult or create confidential information in the Secure Area shall communicate his or her name in advance to the CIU. The CIU shall check the identity of that person and verify whether he or she is permitted, in accordance with Article 3(3) to (7), Article 4(1) or Article 5(3), (4) and (5) to consult or create confidential information.
2. Any person wishing, in accordance with Article 3(3) and (7), to consult confidential information classified at the level RESTREINT EU/EU RESTRICTED or its equivalent or 'other confidential information' in a Secure Reading Room shall communicate his or her name in advance to the competent services of the secretariat of the parliamentary body/office-holder or to the CIU.
3. Save in exceptional circumstances (e.g. where numerous requests for consultation are submitted within a short period of time), only one person at a time shall be authorised to consult confidential information in a secure facility, in the presence of an official of the secretariat of the parliamentary body/office-holder or of the CIU.
4. During the consultation process, contact with the exterior (including by means of telephones or other technological devices), the taking of notes and the photocopying or photographing of the confidential information consulted shall be prohibited.
5. Before authorising a person to leave the secure facility, the official of the secretariat of the parliamentary body/office-holder or of CIU shall check that the confidential information consulted is still present, intact and complete.
6. In the event of a breach of the rules set out above, the official of the secretariat of the parliamentary body/office-holder or of the CIU shall inform the Secretary-General, who shall refer the matter to the President where a Member of the European Parliament is concerned.

#### Article 11

##### **Minimum standards for consultation of confidential information at a meeting in camera outside secure facilities**

1. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' may be consulted by members of parliamentary committees or of other political and administrative bodies of the European Parliament at a meeting in camera outside the secure facilities.

2. In the circumstances provided for in paragraph 1, the secretariat of the parliamentary body/office-holder responsible for the meeting shall ensure that the following conditions are complied with:

- (a) only the persons designated by the chair of the competent committee or body to participate in the meeting are allowed to enter the meeting room;
- (b) all documents are numbered, distributed at the beginning of the meeting and collected again at the end, and no notes of those documents and no photocopies or photographs thereof are taken;
- (c) the minutes of the meeting make no mention of the content of the discussion of the information considered. Only the relevant decision, if any, may be recorded;
- (d) confidential information provided orally to recipients in the European Parliament is subject to a level of protection equivalent to that applied to confidential information in written form;
- (e) no additional stock of documents is held in meeting rooms;
- (f) copies of documents are distributed only in the requisite numbers to participants and interpreters at the start of the meeting;
- (g) the classification/marking status of the documents is made clear by the chair of the meeting at the start of the meeting;
- (h) participants do not remove documents from the meeting room;
- (i) all copies of documents are collected and accounted for at the end of the meeting by the secretariat of the parliamentary body/office-holder; and
- (j) no electronic communication devices or other electronic devices are taken into the meeting room where the confidential information in question is consulted or discussed.

3. Where, in accordance with the exceptions laid down in point 3.2.2 of Annex II to the Framework Agreement and in Article 6(5) of the Interinstitutional Agreement, information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent is discussed at a meeting held in camera, the secretariat of the parliamentary body/office-holder responsible for the meeting shall, in addition to ensuring compliance with the provisions laid down in paragraph 2, ensure that the persons designated to participate in the meeting comply with the requirements of Article 3(4) and (7).

4. In the case provided for in paragraph 3, the CIU shall provide to the secretariat of the parliamentary body/office-holder-responsible for the meeting in camera the requisite number of copies of the documents to be discussed, which shall be returned to the CIU after the meeting.

#### *Article 12*

### **Archiving of confidential information**

1. Secure archiving facilities shall be provided within the Secure Area. The CIU shall be responsible for managing the secure archive in accordance with standard archiving criteria.

2. Classified information definitively deposited with the CIU, and information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent which is deposited with the secretariat of the parliamentary body/office-holder, shall be transferred to the secure archive in the Secure Area six months after it was last consulted and, at the latest, one year after it was deposited. 'Other confidential information' shall be archived, unless deposited with the CIU, by the secretariat of the parliamentary body/office-holder concerned, in accordance with the general rules on document management.

3. Confidential information held in the secure archive may be consulted subject to the following conditions:
  - (a) only those persons identified by name, by function or by office in the accompanying document drawn up when the confidential information was deposited shall be authorised to consult that information;
  - (b) the application to consult confidential information shall be submitted to the CIU, which shall transfer the document in question to the Secure Reading Room; and
  - (c) the procedures and conditions governing the consultation of confidential information set out in Article 10 shall apply.

#### Article 13

### **Downgrading, declassification and unmarking of confidential information**

1. Confidential information may be downgraded, declassified or unmarked only with the prior consent of the originator, and, if necessary, after discussion with other interested parties.
2. Downgrading or declassification shall be confirmed in writing. The originator shall be responsible for informing its addressees of the change, and they in turn shall be responsible for informing any subsequent addressees to whom they have sent or copied the document, of the change. If possible, originators shall specify on classified documents a date, period or event when the contents may be downgraded or declassified. Otherwise, they shall keep the documents under review every five years, at the latest, in order to ensure that the original classification is necessary.
3. Confidential information held in the secure archives shall be examined in good time, and by no later than the 25th anniversary of its creation, in order to determine whether or not it should be declassified, downgraded or unmarked. The examination and publication of such information shall take place in accordance with the provisions of Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community <sup>(1)</sup>. Declassification shall be effected by the originator of the classified information or the service currently responsible in accordance with Annex I, Part 1, Section 10.
4. Following declassification, formerly classified information held in the secure archive shall be transferred to the historical archives of the European Parliament for permanent preservation and further treatment under the applicable rules.
5. Following unmarking, formerly 'other confidential information' shall be subject to the European Parliament rules on document management.

#### Article 14

### **Breaches of security, loss or compromise of confidential information**

1. A breach of confidentiality in general, and of this Decision in particular, shall in the case of Members of the European Parliament entail the application of the relevant provisions concerning penalties set out in the European Parliament's Rules of Procedure.
2. A breach committed by a member of staff of the European Parliament shall lead to the application of the procedures and penalties provided for by, respectively, the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down in Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(2)</sup> ('the Staff Regulations').

<sup>(1)</sup> OJ L 43, 15.2.1983, p. 1.

<sup>(2)</sup> OJ L 56, 4.3.1968, p. 1.

3. The President and/or the Secretary-General, as the case may be, shall organise any necessary investigations in the event of a breach as defined in security notice 6.

4. If the confidential information was communicated to the European Parliament by a Union Institution or by a Member State, the President and/or the Secretary-General, as the case may be, shall inform the Union Institution or Member State concerned of any proven or suspected loss or compromise of classified information, of the results of the investigation and of the measures taken to prevent a recurrence.

#### *Article 15*

### **Adaptation of this Decision and its implementing rules and annual reporting on the application of this Decision**

1. The Secretary-General shall propose any necessary adaptation of this Decision and the annexes implementing it and shall forward those proposals to the Bureau for decision.

2. The Secretary-General shall be responsible for the implementation of this Decision by the European Parliament's services and shall issue the handling instructions on matters covered by the ISMS in accordance with the principles laid down by this Decision.

3. The Secretary-General shall submit an annual report to the Bureau on the application of this Decision.

#### *Article 16*

### **Transitional and final provisions**

1. Non classified information held in the CIU or in any other archive of the European Parliament which is considered as confidential and dated before 1 April 2014 shall be deemed, for the purpose of this Decision, to constitute 'other confidential information'. Its originator may at any time reconsider the level of its confidentiality.

2. By way of derogation from point (a) of Article 5(1) and from Article 8(1) of this Decision, for a period of twelve months from 1 April 2014, information provided by the Council pursuant to the Interinstitutional Agreement which is classified at the level RESTREINT UE/EU RESTRICTED or its equivalent shall be deposited with, registered by and stored in the CIU. Such information may be consulted in accordance with points (a) and (c) of Article 4(2) and with Article 5(4) of the Interinstitutional Agreement.

3. The decision of the Bureau of 6 June 2011 concerning the rules governing the treatment of confidential information by the European Parliament is repealed.

#### *Article 17*

### **Entry into force**

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

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## ANNEX I

## Part 1

**BASIC PRINCIPLES AND MINIMUM STANDARDS OF SECURITY FOR THE PROTECTION OF CONFIDENTIAL INFORMATION****1. INTRODUCTION**

These provisions set out the basic principles and minimum standards of security for the protection of confidential information to be respected and/or complied with by the European Parliament in all its places of employment, including by all recipients of, classified information and 'other confidential information' so that security is safeguarded and all persons concerned may be assured that a common standard of protection is established. These provisions are supplemented by the security notices contained in Annex II and by other provisions governing the treatment of confidential information by parliamentary committees and other parliamentary bodies/office-holders.

**2. BASIC PRINCIPLES**

The European Parliament's security policy forms an integral part of its general internal management policy and is thus based on the principles governing that general policy. Those principles include legality, transparency, accountability, subsidiarity and proportionality.

Legality entails the need to remain strictly within the legal framework in the performance of security functions, and to conform to the applicable legal requirements. Furthermore, responsibilities in the field of security must be based on proper legal provisions. The provisions of the Staff Regulations, in particular Article 17 thereof on the obligation of staff to refrain from any unauthorised disclosure of information received in the line of duty and Title VI thereof on disciplinary measures, are fully applicable. Finally, breaches of security within the responsibility of the European Parliament shall be dealt with in a manner consistent with its Rules of Procedure and its policy on disciplinary measures.

Transparency entails the need for clarity regarding all security rules and provisions, for a balance between the different services and the different domains (physical security as compared to the protection of information, etc.), and for a consistent and structured security awareness policy. Moreover, clear written guidelines are necessary for the implementation of security measures.

Accountability means that responsibilities in the field of security must be clearly defined. Moreover, it entails the need regularly to monitor whether those responsibilities have been properly fulfilled.

Subsidiarity means that security must be organised at the lowest possible level and as closely as possible to the European Parliament's Directorates-General and services.

Proportionality means that security activities must be strictly limited to those which are absolutely necessary and that security measures must be proportional to the interests to be protected as well as to the actual or potential threat to those interests, so as to enable those interests to be defended in a manner ensuring the least possible disruption.

**3. FOUNDATIONS OF INFORMATION SECURITY**

The foundations of sound information security are:

- (a) proper communication and information systems (CIS). These fall within the responsibility of the European Parliament's Security Authority (as defined in security notice 1);
- (b) within the European Parliament, the Information Assurance Authority (as defined in security notice 1) responsible for working with the Security Authority to provide information and advice on technical threats to CIS and the means of protecting against those threats;
- (c) close cooperation between the European Parliament's responsible services and the security services of the other Union institutions;

#### 4. PRINCIPLES OF INFORMATION SECURITY

##### 4.1. *Objectives*

The principle objectives of information security are as follows:

- (a) to safeguard confidential information against espionage, compromise or unauthorised disclosure;
- (b) to safeguard classified information handled in communications and information systems and networks against threats to its confidentiality, integrity and availability;
- (c) to safeguard European Parliament premises housing classified information against sabotage and malicious wilful damage;
- (d) in the event of a security failure, to assess the damage caused, limit the consequences, conduct security investigations and adopt any necessary remedial measures.

##### 4.2. *Classification*

4.2.1. Where confidentiality is concerned, care and experience are needed in the selection of the information and material to be protected as well as in assessing the degree of protection required. It is essential that the degree of protection should correspond to the sensitivity, in terms of security, of the individual item of information or material to be safeguarded. In order to ensure the smooth flow of information, both over-classification and under-classification shall be avoided.

4.2.2. The classification system is the instrument for putting into effect the principles set out in this section. A similar classification system shall be followed in planning and organising ways to counter espionage, sabotage, terrorism and other threats, in order to ensure maximum protection for the most important premises housing classified information and the most sensitive points within those premises.

4.2.3. Responsibility for classifying information lies solely with the originator of the information concerned.

4.2.4. The level of classification may be based solely on the content of the information concerned.

4.2.5. Where several items of information are grouped together, their classification shall be at least as high as the highest classification level assigned to one of its individual items. However, a collection of information may be assigned a higher classification than its constituent parts.

4.2.6. Classifications shall be assigned only when necessary and for as long as necessary.

##### 4.3. *Aims of security measures*

The security measures shall:

- (a) extend to all persons having access to classified information, media carrying classified information and 'other confidential information', as well as all premises containing such information and important installations;
- (b) be designed in such a way as to identify persons whose position (in terms of access, relationships or otherwise) might jeopardise the security of such information and of important installations housing such information, and provide for their exclusion or removal;

- (c) prevent unauthorised persons from having access to such information or to installations containing it;
- (d) ensure that such information is disseminated solely on the basis of the need-to-know principle, which is fundamental to all aspects of security;
- (e) ensure the integrity (by preventing corruption, unauthorised alteration or unauthorised deletion) and the availability (to those needing and authorised to have access thereto) of confidential information, especially where it is stored, processed or transmitted in electromagnetic form.

## 5. COMMON MINIMUM STANDARDS

The European Parliament shall ensure that common minimum standards of security are observed by all recipients of classified information, both inside the institution and under its competence, namely all its services and contractors, so that such information can be passed on in the confidence that it will be handled with equal care. Such minimum standards shall include criteria for the security clearance of officials of the European Parliament and other Parliament employees working for political groups, and procedures for the protection of confidential information.

The European Parliament shall allow third parties access to such information only when such third parties guarantee that it is handled in accordance with provisions that are at least strictly equivalent to these common minimum standards.

Such common minimum standards shall also be applied when, pursuant to a contract or grant, the European Parliament entrusts to industrial or other entities tasks involving confidential information.

## 6. SECURITY AS REGARDS OFFICIALS OF THE EUROPEAN PARLIAMENT AND OTHER PARLIAMENT EMPLOYEES WORKING FOR POLITICAL GROUPS

### 6.1. *Security instructions as regards officials of the European Parliament and other Parliament employees working for political groups*

Officials of the European Parliament and other Parliament employees working for political groups in positions where they could have access to classified information shall be given thorough instructions, both on taking up their duties and at regular intervals thereafter, on the need for security and the procedures involved. Such persons shall be required to confirm in writing that they have read and fully understand the applicable security provisions.

### 6.2. *Management responsibilities*

It must be part of the duties of managers to know which of their staff are engaged in work on classified information or have access to secure communication or information systems, and to record and report any incidents or apparent vulnerabilities which are likely to affect security.

### 6.3. *Security status of officials of the European Parliament and other Parliament employees working for political groups*

Procedures shall be established to ensure that, when adverse information becomes known concerning an official of the European Parliament or other Parliament employee working for a political group, steps are taken to determine whether that individual's work brings him or her into contact with classified information or whether he or she has access to secure communication or information systems, and that the European Parliament's responsible service is informed. If the competent National Security Authority indicates that such an individual constitutes a security risk, he or she shall be barred or removed from assignments where he or she might endanger security.

## 7. PHYSICAL SECURITY

'Physical security' means the application of physical and technical protective measures to prevent unauthorised access to classified information.

### 7.1. *Need for protection*

The degree of physical security measures to be applied to ensure the protection of classified information shall be proportionate to the classification and volume of, and the threat to, the information and material held. All holders of classified information shall follow uniform practices regarding classification of such information and must meet common standards of protection regarding the custody, transmission and disposal of information and material requiring protection.

### 7.2. *Checking*

Before leaving areas containing classified information unattended, persons having custody thereof shall ensure that it is securely stored and that all security devices have been activated (locks, alarms, etc.). Further independent checks shall be carried out after working hours.

### 7.3. *Security of buildings*

Buildings housing classified information or secure communication and information systems shall be protected against unauthorised access.

The nature of the protection afforded to classified information, e.g. barring of windows, locks for doors, guards at entrances, automated access control systems, security checks and patrols, alarm systems, intrusion detection systems and guard dogs, shall depend on:

- (a) the classification, volume and location within the building of the information and material to be protected;
- (b) the quality of the security containers for the information and material concerned; and
- (c) the physical nature and location of the building.

The nature of the protection afforded to communication and information systems shall depend on an assessment of the value of the assets at stake and of the potential damage if security were to be compromised, on the physical nature and location of the building in which the system is housed, and on the location of that system within the building.

### 7.4. *Contingency plans*

Detailed plans shall be in place in advance to ensure the protection of classified information in the event of an emergency.

## 8. SECURITY DESIGNATORS, MARKINGS, AFFIXING AND CLASSIFICATION MANAGEMENT

### 8.1. *Security designators*

No classifications other than those defined in point (d) of Article 2 of this Decision are permitted.

An agreed security designator may be used to set limits to the validity of a classification (for classified information signifying automatic downgrading or declassification).



Security designators shall only be used in combination with a classification.

Security designators are further regulated in security notice 2 and defined in the handling instructions.

## 8.2. *Markings*

A marking is used to specify predefined specific instructions about the handling of confidential information. Markings may also indicate the field covered by a given document, a particular distribution on a need-to-know basis, or (for non-classified information) to signify the end of an embargo.

A marking is not a classification and shall not be used in lieu of one.

Markings are further regulated in security notice 2 and defined in the handling instructions.

## 8.3. *Affixing of classifications and of security designators*

Affixing of classifications and security designators and markings shall be done in accordance with security notice 2, section E, and the handling instructions.

## 8.4. *Classification management*

### 8.4.1 *General*

Information shall be classified only when necessary. The classification shall be clearly and correctly indicated, and shall be maintained only as long as the information requires protection.

The responsibility for classifying information and for any subsequent downgrading or declassification rests solely with the originator.

Officials of the European Parliament shall classify, downgrade or declassify information on instructions from, or pursuant to a delegation from, the Secretary-General.

The detailed procedures for the treatment of classified documents shall be so framed as to ensure that they are afforded protection appropriate to the information which they contain.

The number of persons authorised to originate information classified at the level TRÈS SECRET UE/EU TOP SECRET' shall be kept to a minimum, and their names shall be recorded on a list drawn up by the CIU.

### 8.4.2 *Application of classification*

The classification of a document shall be determined by the level of sensitivity of its contents in accordance with the definitions contained in point (d) of Article 2. It is important that classifications be assigned correctly and used sparingly.

The classification of a letter or note containing enclosures shall be at least as high as the highest classification assigned to one of its enclosures. The originator shall indicate clearly the level at which the letter or note should be classified when detached from its enclosures.

The originator of a document that is to be given a classification shall follow the rules set out above and shall avoid over-classification or under-classification.

Individual pages, paragraphs, sections, annexes, appendices, attachments and enclosures of a given document may require different classifications and shall be classified accordingly. The classification of the document as a whole shall be that of its most highly classified part.

## **9. INSPECTIONS**

Periodic internal inspections of security arrangements for the protection of classified information shall be carried out by the European Parliament's Directorate for Security and Risk Assessment, which may request assistance from the Security Authorities of the Council or of the Commission.

The Security Authorities and competent services of the Union Institutions may carry out, as part of an agreed process initiated by either side, peer evaluations of the security arrangements for the protection of classified information exchanged under the relevant interinstitutional agreements.

## **10. DECLASSIFICATION AND UNMARKING PROCEDURES**

10.1. The CIU shall examine confidential information contained in its Register and seek the consent of the originator to the declassification or unmarking of a document by no later than the 25th anniversary of its creation. Documents not declassified or unmarked at the first examination shall be re-examined periodically and at least every five years. In addition to being applied to documents actually located in the secure archives in the Secure Area and duly classified, the unmarking process may also cover other confidential information held either in the parliamentary body/office or in the service in charge of the Parliament's historical archives.

10.2 The decision with regard to the declassification or unmarking of a document shall, as a general rule, be taken solely by the originator or, exceptionally, in cooperation with the parliamentary body/office-holder of such information, before the information which it contains is transferred to the service in charge of the Parliament's historical archives. Classified information may only be declassified or unmarked with the prior written consent of the originator. In the case of 'other confidential information', the secretariat of the parliamentary body/office-holder of such information shall, in cooperation with the originator, decide whether the document can be unmarked.

10.3. On behalf of the originator, the CIU shall be responsible for informing the addressees of the document of the change to the classification or marking, and they in turn shall be responsible for informing any subsequent addressees to whom they have sent or copied the document.

10.4. Declassification shall not affect any security designators or markings which may appear on the document.

10.5. In the case of declassification, the original classification at the top and bottom of every page shall be crossed out. The first (cover) page of the document shall be stamped and completed with the reference of the CIU. In the case of unmarking, the original marking at the top of every page shall be crossed out.

10.6. The text of the declassified or unmarked document shall be attached to the electronic fiche or equivalent system where it has been registered.

10.7. In the case of documents covered by the exception relating to privacy and the integrity of the individual or commercial interests of a natural or legal person, and in the case of sensitive documents, Article 2 of Regulation (EEC, Euratom) No 354/83 shall apply.

10.8. In addition to the provisions of points 10.1 to 10.7, the following rules shall apply:

- (a) as regards third-party documents, the CIU shall consult the third party concerned before proceeding to carry out the declassification or unmarking;
- (b) as regards the exception relating to privacy and the integrity of the individual, the declassification or unmarking procedure shall take into account, in particular, the agreement of the person concerned or, as the case may be, the impossibility of identifying the person concerned;
- (c) as regards the exception relating to commercial interests of a natural or legal person, the person concerned may be notified via publication in the *Official Journal of the European Union* and given four weeks from the date of that publication in which to submit remarks.

## Part 2

### SECURITY CLEARANCE PROCEDURE

#### 11. SECURITY CLEARANCE PROCEDURE FOR MEMBERS OF THE EUROPEAN PARLIAMENT

11.1. In order to have access to information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent, Members of the European Parliament shall have been authorised either in accordance with the procedure referred to in points 11.3 and 11.4 of this Annex or on the basis of a solemn declaration of non-disclosure pursuant to Article 3(4) of this Decision.

11.2 In order to have access to information classified at the level SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent, Members of the European Parliament shall have been authorised in accordance with the procedure referred to in points 11.3 and 11.14.

11.3. Authorisation shall be granted only to Members of the European Parliament who have undergone security screening by the competent national authorities of the Member States in accordance with the procedure referred to in points 11.9 to 11.14. The President shall be responsible for granting the authorisation for Members.

11.4 The President may grant written authorisation after obtaining the opinion of the competent national authorities of the Member States on the basis of security screening carried out in accordance with points 11.8 to 11.13.

11.5. The European Parliament's Directorate for Security and Risk Assessment shall maintain an up-to-date list of all Members of the European Parliament who have been granted authorisation, including provisional authorisation within the meaning of point 11.15.

11.6. Authorisation shall be valid for a period of five years or for the duration of the tasks in respect of which it was granted, whichever is the shorter. It may be renewed in accordance with the procedure laid down in point 11.4.

11.7. Authorisation shall be withdrawn by the President where he/she considers that there are justified grounds for such withdrawal. Any decision to withdraw authorisation shall be notified to the Member of the European Parliament concerned, who may ask to be heard by the President before the withdrawal takes effect, and to the competent national authority.

11.8. Security screening shall be carried out with the assistance of the Member of the European Parliament concerned and at the request of the President. The competent national authority for screening shall be that of the Member State of which the Member concerned is a national.

11.9. As part of the screening procedure, the Member of the European Parliament concerned shall be required to complete a personal information form.

11.10. The President shall specify in his/her request to the competent national authority the level of classified information to be made available to the Member of the European Parliament concerned, so that it may carry out the screening process.

11.11. The entire security-screening process carried out by the competent national authority, together with the results obtained, shall be in accordance with the relevant rules and regulations in force in the Member State concerned, including those concerning appeals.

11.12. Where the competent national authority gives a positive opinion, the President may grant the Member of the European Parliament concerned authorisation.

11.13. A negative opinion by the competent national authority shall be notified to the Member of the European Parliament concerned, who may ask to be heard by the President. Should he/she consider it necessary, the President may ask the competent national authority for further clarification. If the negative opinion is confirmed, authorisation shall not be granted.

11.14. All Members of the European Parliament who are granted authorisation within the meaning of point 11.3 shall, at the time when the authorisation is granted and at regular intervals thereafter, receive any necessary guidelines concerning the protection of classified information and the means of ensuring such protection. Such Members shall sign a declaration acknowledging receipt of those guidelines.

11.15. In exceptional circumstances, the President may, after notifying the competent national authority and provided that no reaction is received from that authority within one month, grant provisional authorisation to a Member of the European Parliament for a period not exceeding six months, pending the outcome of the screening referred to in point 11.11. Provisional authorisations thus granted shall not give access to information classified at the level TRÈS SECRET UE/EU TOP SECRET or its equivalent.

## **12. SECURITY CLEARANCE PROCEDURE FOR OFFICIALS OF THE EUROPEAN PARLIAMENT AND OTHER PARLIAMENT EMPLOYEES WORKING FOR POLITICAL GROUPS**

12.1. Only officials of the European Parliament and other Parliament employees working for political groups who, by reason of their duties and the requirements of the service, need to have knowledge of, or to use, classified information may have access thereto.

12.2. In order to have access to information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET, or TRÈS SECRET UE/EU TOP SECRET, or its equivalent, the officials of the European Parliament and other Parliament employees working for political groups concerned shall have been authorised in accordance with the procedure laid down in points 12.3 and 12.4.

12.3. Authorisation shall be granted only to the persons referred to in point 12.1 who have undergone security screening by the competent national authorities of the Member States in accordance with the procedure referred to in points 12.9 to 12.14. The Secretary-General shall be responsible for granting the authorisation for officials of the European Parliament and other Parliament employees working for political groups.

12.4 The Secretary-General may grant written authorisation after obtaining the opinion of the competent national authorities of the Member States on the basis of security screening carried out in accordance with points 12.8 to 12.13.

12.5. The European Parliament's Directorate for Security and Risk Assessment shall maintain an up-to-date list of all posts requiring a security clearance, as provided by the relevant European Parliament services, and of all persons who have been granted authorisation, including provisional authorisation within the meaning of point 12.15.

12.6. Authorisation shall be valid for a period of five years or for the duration of the tasks in respect of which it was granted, whichever is the shorter. It may be renewed in accordance with the procedure referred to in point 12.4.

12.7. Authorisation shall be withdrawn by the Secretary-General where he/she considers that there are justifiable grounds for such withdrawal. Any decision to withdraw authorisation shall be notified to the official of the European Parliament or other Parliament employee working for a political group concerned, who may ask to be heard by the Secretary-General before the withdrawal takes effect, and to the competent national authority.

12.8. Security screening shall be carried out with the assistance of the official of the European Parliament or other Parliament employee working for political groups concerned and at the request of the Secretary-General. The competent national authority for screening shall be that of the Member State of which the person concerned is a national. Where permissible under national laws and regulations, the competent national authorities may conduct investigations in respect of non-nationals who require access to information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET.

12.9. As part of the screening procedure, the official of the European Parliament or other Parliament employee working for a political group concerned shall be required to complete a personal information form.

12.10. The Secretary-General shall specify in his/her request to the competent national authority the level of classified information to be made available to the official of the European Parliament or other Parliament employee working for political groups concerned, so that it may carry out the screening process and give its opinion as to the level of authorisation appropriate to be granted to that person.

12.11. The entire security-screening process carried out by the competent national authority, together with the results obtained, shall be in accordance with the relevant rules and regulations in force in the Member State concerned, including those concerning appeals.

12.12. Where the competent national authority gives a positive opinion, the Secretary-General may grant the official of the European Parliament or other Parliament employee working for political groups concerned authorisation.

12.13. A negative opinion by the competent national authority shall be notified to the official of the European Parliament or other Parliament employee working for a political group concerned, who may ask to be heard by the Secretary-General. Should he/she consider it necessary, the Secretary-General may ask the competent national authority for further clarification. If the negative opinion is confirmed, authorisation shall not be granted.

12.14. All officials of the European Parliament and other Parliament employees working for political groups who are granted authorisation within the meaning of points 12.4 and 12.5 shall, at the time when the authorisation is granted and at regular intervals thereafter, receive any necessary instructions concerning the protection of classified information and the means of ensuring such protection. Such officials and employees shall sign a declaration acknowledging receipt of those instructions and give an undertaking to obey them.

12.15. In exceptional circumstances, the Secretary-General may, after notifying the competent national authority and provided that no reaction is received from that authority within one month, grant provisional authorisation to an official of the European Parliament or other Parliament employee working for a political group for a period not exceeding six months, pending the outcome of the screening referred to in point 12.11. Provisional authorisations thus granted shall not give access to information classified at the level TRÈS SECRET UE/EU TOP SECRET or its equivalent.

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## ANNEX II

**INTRODUCTION**

These provisions lay down the security notices governing and ensuring the secure treatment and management of confidential information by the European Parliament. Those security notices, together with the handling instructions, constitute the European Parliament's information security management system (ISMS) referred to in Article 3(2) of this Decision:

**SECURITY NOTICE 1****The organisation of security in the European Parliament for the protection of confidential information****SECURITY NOTICE 2****Management of confidential information****SECURITY NOTICE 3****The processing of confidential information by means of automated communication information systems (CIS)****SECURITY NOTICE 4****Physical security****SECURITY NOTICE 5****Industrial security****SECURITY NOTICE 6****Breaches of security, loss or compromise of confidential information****SECURITY NOTICE 1****THE ORGANISATION OF SECURITY IN THE EUROPEAN PARLIAMENT FOR THE PROTECTION OF CONFIDENTIAL INFORMATION**

1. The Secretary-General shall be responsible for the overall and consistent implementation of this Decision.

The Secretary-General shall take all necessary measures to ensure that, for the purposes of handling or storing confidential information, this Decision is applied in Parliament's premises, by Members of the European Parliament, by officials of the European Parliament, by other Parliament employees working for political groups and by contractors.

2. The Secretary-General is the Security Authority (SA). In this capacity, the Secretary-General shall be responsible for:

- 2.1. coordinating all matters of security relating to Parliament's activities in relation to the protection of confidential information;

- 2.2. approving the installation of a Secure Area, Secure Reading Rooms and secure equipment;
  - 2.3. implementing decisions authorising, pursuant to Article 6 of this Decision, the transmission of classified information by Parliament to third parties;
  - 2.4. investigating or ordering an investigation into any leakage of confidential information which *prima facie* has occurred within Parliament, in liaison with the President of the European Parliament, where a Member of the European Parliament is concerned;
  - 2.5. maintaining close contact with the security authorities of other Union Institutions and with National Security Authorities in the Member States with a view to ensuring optimal coordination of security policy related to classified information;
  - 2.6. keeping Parliament's security policy and procedures constantly under review and issuing appropriate recommendations resulting therefrom;
  - 2.7. reporting to the National Security Authority (NSA) which has carried out the security screening procedure, in accordance with Annex I, Part 2, point 11.3, in cases involving any adverse information which may affect that authority.
3. Where a Member of the European Parliament is concerned, the Secretary-General shall discharge his/her responsibilities in close liaison with the President of the European Parliament.
4. In fulfilling his/her responsibilities under paragraphs 2 and 3, the Secretary-General shall be assisted by the Deputy Secretary-General, the Directorate for Security and Risk Assessment, the Directorate for Information Technologies (DIT) and the Classified Information Unit (CIU).
- 4.1. The Directorate for Security and Risk Assessment shall be responsible for personal protection measures and, in particular, for the security clearance procedure, as laid down in Annex I, Part 2. The Directorate for Security and Risk Assessment shall also:
- (a) be the point of contact for the security authorities of the other Union Institutions and for the NSAs, in matters relating to security clearance procedures for Members of the European Parliament, officials of the European Parliament and other Parliament employees working for political groups;
  - (b) provide the necessary general security briefing on the obligation to protect classified information and on the consequences of any failure to do so;
  - (c) monitor the operation of the Secure Area and the Secure Reading Rooms within Parliament's premises, in co-operation, where appropriate, with the security services of the other Union Institutions and the NSAs;
  - (d) audit, in cooperation with the security authorities of the other Union Institutions and the NSAs, the procedures for the management and storage of classified information, the Secure Area and the Secure Reading Rooms within Parliament's premises where classified information is handled;
  - (e) propose the appropriate handling instructions to the Secretary-General.



4.2. The DIT shall be responsible for handling of confidential information by secure IT systems at the European Parliament.

4.3. The CIU shall be responsible for:

- (a) identifying the security needs for the effective protection of confidential information, in close cooperation with the Directorate for Security and Risk Assessment and DIT and with the Security Authorities of the other Union Institutions;
- (b) identifying all aspects of the management and storage of confidential information within Parliament, as laid down in the handling instructions;
- (c) the operation of the Secure Area;
- (d) the management or consultation of confidential information in the Secure Area or in the CIU's Secure Reading Room, in accordance with paragraphs (2) and (3) of Article 7 of this Decision;
- (e) the management of the CIU Register;
- (f) reporting to the SA any proven or suspected breach of security, loss or compromise relating to confidential information deposited at the CIU and held in the Secure Area or in the CIU Secure Reading Room.

5. Furthermore, the Secretary-General, as SA, shall appoint the following authorities:

- (a) a Security Accreditation Authority (SAA);
- (b) an Information Assurance Operational Authority (IAOA);
- (c) a Crypto Distribution Authority (CDA);
- (d) a TEMPEST Authority (TA);
- (e) an Information Assurance Authority (IAA).

The exercise of those functions does not require single organisational entities. They shall have separate mandates. However, those functions, and their accompanying responsibilities, may be combined or integrated in the same organisational entity or split into different organisational entities, provided that conflicts of interest and duplication of tasks are avoided.

6. The SAA shall advise on all security matters related to the accreditation of each information technology system and network within Parliament by:

- 6.1. ensuring that the CIS comply with the relevant security policies and security guidelines, providing a statement of approval for the handling by the CIS of classified information to a defined level of classification in its operational environment and stating the terms and conditions of the accreditation and the criteria under which re-approval is required;
- 6.2. setting up a security accreditation process, in accordance with the relevant policies, clearly stating the approval conditions for the CIS under its authority;

6.3. drawing up a security accreditation strategy which sets out the degree of detail for the accreditation process commensurate with the level of assurance required;

6.4. examining and approving security-related documentation, including risk management and residual risk statements, security implementation verification documentation and security operating procedures, and ensuring that it complies with Parliament's security rules and policies;

6.5. verifying the implementation of security measures in relation to the CIS by carrying out or sponsoring security assessments, inspections or reviews;

6.6. identifying security requirements (e.g. personnel clearance levels) for sensitive positions in relation to the CIS;

6.7. approving, or where relevant, participating in, the joint approval of the interconnection of a given CIS to other CIS;

6.8. approving the security standards of technical equipment envisaged for the secure handling and protection of classified information;

6.9. ensuring that cryptographic products used within Parliament are included in the list of EU approved products; and

6.10. consulting the system provider, the security actors and representatives of the users with respect to security risk management, in particular the residual risk, and the terms and conditions of the approval statement.

7. The IAOA shall be responsible for:

7.1. developing security documentation in line with security policies and security guidelines, in particular including the residual risk statement, the security operating procedures and the crypto plan within the CIS accreditation process;

7.2. participating in the selection and testing of the system-specific technical security measures, devices and software, in order to supervise their implementation and to ensure that they are securely installed, configured and maintained in accordance with the relevant security documentation;

7.3. monitoring the implementation and application of the security operating procedures and, where appropriate, delegating operational security responsibilities to the system owner, namely the CIU;

7.4. managing and handling cryptographic products, ensuring the custody of crypto items and controlled items and, if so required, ensuring the generation of cryptographic variables;

7.5. conducting security analysis reviews and tests, in particular for the purposes of producing the relevant risk reports, as required by the SAA;

7.6. providing CIS-specific information assurance training;

7.7. implementing and operating CIS-specific security measures.

8. The CDA shall be responsible for:

8.1. managing and accounting for EU crypto material;

8.2. ensuring, in close cooperation with the SAA, that appropriate procedures are enforced and that plans are in place for accounting, secure handling, storage and distribution of all EU crypto material; and

8.3. ensuring the transfer of EU crypto material to or from individuals or services using it.

9. The TA shall be responsible for ensuring compliance by the CIS with TEMPEST policies and handling instructions. It shall approve TEMPEST countermeasures for installations and products to protect classified information to a defined level of classification in its operational environment.

10. The IAA shall be responsible for all aspects of the management and handling of confidential information within Parliament and, in particular, for:

10.1 developing information assurance security and its security guidelines, and monitoring their effectiveness and pertinence;

10.2. safeguarding and administering technical information related to cryptographic products;

10.3. ensuring that information assurance measures selected for protecting classified information comply with the relevant policies governing their eligibility and selection;

10.4. ensuring that cryptographic products are selected in compliance with policies governing their eligibility and selection;

10.5. consulting with the system provider, the security actors and representatives of users with regard to information assurance security;

## **SECURITY NOTICE 2**

### **MANAGEMENT OF CONFIDENTIAL INFORMATION**

#### **A. INTRODUCTION**

1. This security notice sets out the provisions for the management by Parliament of confidential information.

2. When creating confidential information, the originator shall assess the level of confidentiality and take a decision based on the principles set out in this security notice as to the classification or marking of that information.

#### **B. EUCI CLASSIFICATION**

3. The decision to classify a document shall be made before its creation. To that end, classifying information as EUCI involves a prior assessment of its level of confidentiality and a decision by the originator that unauthorised disclosure of such information would cause some degree of prejudice to the interests of the European Union or of one or more of its Member States or individuals.

4. Once the decision to classify the information is taken, a second prior assessment shall follow in order to determine the appropriate classification level. The classification of a document shall be determined by the level of sensitivity of its contents.
5. Responsibility for classifying information shall lie solely with the originator. Parliament officials shall classify information on instructions from, or pursuant to a delegation by, the Secretary-General.
6. Classification shall be correctly and sparingly used. The originator of a document that is to be given a classification shall curb any tendency to over-classify or under-classify.
7. The classification level assigned to the information shall determine the level of protection afforded to it in the areas of personnel security, physical security, procedural security and information assurance.
8. Information which warrants classification shall be marked and handled as such, regardless of its physical form. Its classification shall be clearly communicated to its recipients, either by a security classification marking (if it is delivered in written form, be it on paper or within a CIS) or by an announcement (if it is delivered in oral form, such as in the course of a conversation or a meeting held in camera). Classified material shall be physically marked so as to enable its security classification to be easily identified.
9. EUCI in electronic form may only be created within an accredited CIS. The classified information itself, as well as the file name and storage device (if external, such as a CD-ROM or USB stick), shall bear the relevant security classification marking.
10. Information shall be classified as soon as it takes form. For example, personal notes, drafts or e-mail messages containing information which warrants classification are to be marked as EUCI from the outset and shall be produced and handled in accordance with this Decision and its handling instructions in physical and technical terms. Such information may then evolve into an official document which will in turn be appropriately marked and handled. During the drafting process, an official document may need to be re-evaluated and assigned a higher or lower classification level as it evolves.
11. The originator may decide to assign a standard classification level to categories of information which he/she creates on a regular basis. However, the originator shall ensure that, in so doing, he/she does not systematically over-classify or under-classify individual pieces of information.
12. EUCI shall always bear a security classification marking corresponding to its security classification level.

#### **B.1. *Levels of classification***

13. EUCI shall be classified at one of the following levels:
  - ‘TRÈS SECRET UE/EU TOP SECRET’, as defined in point (d) of Article 2 of this Decision, where its compromise would be likely to:
    - (a) threaten directly the internal stability of the Union or of one or more of its Member States or third States or international organisations;
    - (b) cause exceptionally grave damage to relations with third States or international organisations;
    - (c) lead directly to widespread loss of life;

- (d) cause exceptionally grave damage to the operational effectiveness or security of Member States' or other contributors' deployed personnel, or to the continuing effectiveness of extremely valuable security or intelligence operations; or
  - (e) cause severe long-term damage to the Union's or Member States' economy;
- 'SECRET UE/EU SECRET', as defined in point (d) of Article 2 of this Decision, where its compromise would be likely to:
- (a) raise international tensions to a significant degree;
  - (b) seriously damage relations with third States and international organisations;
  - (c) threaten life directly or seriously prejudice public order or individual security or liberty;
  - (d) damage major commercial or policy negotiations, causing significant operational problems for the Union or Member States;
  - (e) cause serious damage to the operational security of Member States, or to the effectiveness of highly valuable security or intelligence operations;
  - (f) cause substantial material damage to Union or Member State financial, monetary, economic and commercial interests;
  - (g) substantially undermine the financial viability of major organisations or operators; or
  - (h) seriously impede the development or operation of Union policies with major economic, trade or financial consequences;
- 'CONFIDENTIEL UE/EU CONFIDENTIAL', as defined in point (d) of Article 2 of this Decision, where its compromise would be likely to:
- (a) significantly damage diplomatic relations, e.g. where it would lead to a formal protest or other sanctions;
  - (b) put individual security or liberty at risk;
  - (c) put the outcome of commercial or policy negotiations at serious risk; cause operational problems for the Union or Member States;
  - (d) cause damage to the operational security of Member States, or to the effectiveness of security or intelligence operations;
  - (e) substantially undermine the financial viability of major organisations or operators;
  - (f) impede the investigation or facilitate the commission of crime or terrorist activities;
  - (g) work substantially against Union or Member State financial, monetary, economic and commercial interests; or
  - (h) seriously impede the development or operation of Union policies with major economic, trade or financial consequences;

- ‘RESTREINT UE/EU RESTRICTED’, as defined in point (d) of Article 2 of this Decision, where its compromise would be likely to:
- (a) be disadvantageous to the general interests of the Union;
  - (b) adversely affect diplomatic relations;
  - (c) cause substantial distress to individuals or companies;
  - (d) be disadvantageous to the Union or Member States in commercial or policy negotiations;
  - (e) make it more difficult to maintain effective security within the Union or Member States;
  - (f) impede the effective development or operation of Union policies;
  - (g) undermine the proper management of the Union and its operations;
  - (h) breach undertakings given by Parliament to maintain the classified status of information provided by third parties;
  - (i) breach statutory restrictions on disclosure of information;
  - (j) cause financial loss or facilitate improper gain or advantage for individuals or companies; or
  - (k) prejudice the investigation or facilitate the commission of crime.

## **B.2. *Classification of compilations, cover pages and excerpts***

14. The classification of a letter or note containing enclosures shall be as high as the highest classification level assigned to one of its enclosures. The originator shall indicate clearly the level at which the letter or note should be classified when detached from its enclosures. Where the cover note/letter does not need to be classified, it shall include the following final wording: ‘When detached from its enclosures, this note/letter is unclassified.’.

15. Documents or files containing components with different classification levels are whenever possible to be structured in such a way that components with a different classification level may be easily identified and detached if necessary. The overall classification level of a document or file shall be at least as high as that of its most highly classified component.

16. Individual pages, paragraphs, sections, annexes, appendices, attachments and enclosures of a given document may require different classification levels and shall be classified accordingly. Standard abbreviations may be used within documents containing EUCI to indicate the classification level of sections or blocks of text of less than a single page.

17. When information from various sources is collated, the final product shall be reviewed to determine its overall security classification level, since it may warrant a higher classification level than its component parts.

## **C. OTHER CONFIDENTIAL INFORMATION**

18. ‘Other confidential information’ shall be marked in accordance with point E of this security notice and the handling instructions.

**D. CREATION OF CONFIDENTIAL INFORMATION**

19. Only persons duly empowered by this Decision or authorised by the SA may create confidential information.

20. Confidential information shall not be added to internet or intranet document management systems.

**D.1. *Creation of EUCI***

21. In order to create EUCI classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, the individual concerned shall be empowered by this Decision or shall first be in possession of an authorisation granted pursuant to Article 4(1) of this Decision.

22. EUCI classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET shall be created only within the Secure Area.

23. The following rules shall apply to the creation of EUCI:

- (a) each page shall be marked clearly with the applicable classification level;
- (b) each page shall be numbered and shall state the total number of pages;
- (c) the document shall bear a reference number on the first page and an indication of its subject-matter, which shall not itself constitute classified information, unless it is affixed as such;
- (d) the document shall bear a date on the first page;
- (e) the first page of any document classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET shall contain a list of all annexes and enclosures;
- (f) documents classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET shall bear a copy number on every page, if they are to be distributed in several copies. Each copy shall also bear on the first page the total number of copies and of pages, and
- (g) if the document makes reference to other documents containing classified information received from other Union Institutions, or if it contains classified information emanating from those documents, it shall bear the same classification level as those documents and may not, without the prior written consent of its originator, be distributed to any persons other than those named in the distribution list in respect of the original document or documents containing classified information.

24. The originator shall retain control of EUCI which he/she has created. His/her prior written consent shall be sought before that EUCI is:

- (a) downgraded or declassified;
- (b) used for purposes other than those established by the originator;
- (c) disclosed to any third State or international organisation;
- (d) disclosed to any person, institution, country or international organisation other than the addressees originally authorised by the originator to consult the information in question;

- (e) disclosed to a contractor or prospective contractor located in a third State;
- (f) copied or translated, if the information is classified at the level TRES SECRET UE/EU TOP SECRET;
- (g) destroyed.

#### D.2. *Creation of other confidential information*

25. The Secretary-General, acting as SA, may decide whether or not to authorise the creation of 'other confidential information' by a given function, service and/or individual.

26. 'other confidential information' shall bear one of the markings defined in the handling instructions.

27. The following rules shall apply to the creation of 'other confidential information':

- (a) its marking shall be indicated at the top of the first page of the document;
- (b) each page shall be numbered within the total number of pages;
- (c) the document shall bear a reference number on the first page and an indication of its subject-matter;
- (d) the document shall bear a date on the first page and;
- (e) the last page of the document shall contain a list of all annexes and enclosures.

28. Creation of 'other confidential information' is subject to specific rules and procedures laid down in the handling instructions.

#### E. SECURITY DESIGNATORS AND MARKINGS

29. Security designators and markings on documents are intended to control the flow of information and to restrict access to confidential information on the basis of the 'need to know' principle.

30. When security designators and/or markings are being used or affixed, care shall be taken to avoid confusion with security classifications for EUCI: RESTREINT UE/EU RESTRICTED, CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET, TRES SECRET UE/EU TOP SECRET.

31. Specific rules concerning the use of security designators and markings, along with the list of approved European Parliament security markings, shall be laid down in the handling instructions.

##### E.1. *Security designators*

32. Security designators may only be used in conjunction with a security classification and shall not be applied separately to documents. A security designator may be applied to EUCI in order to:

- (a) set limits to the validity of a classification (for classified information signifying automatic downgrading or declassification);
- (b) limit the distribution of the EUCI in question;
- (c) establish special handling arrangements in addition to those corresponding to the security classification level.



33. The extra controls applicable to the handling and storage of documents containing EUCI impose additional burdens on all involved. In order to minimise the work required in this connection, it is good practice, when creating such a document, to establish a time limit or event after which the classification is to automatically expire and the information contained in the document is to be downgraded or declassified.

34. Where a document deals with a specific area of work and its distribution needs to be limited and/or it is to be subject to special handling arrangements, a statement to that effect may be added to its classification to help to identify its target audience.

## **E.2. *Markings***

35. Markings do not constitute a security classification. They are intended to serve only to provide concrete instructions about the handling of a document, and shall not be used to describe the contents of such document.

36. Markings may be applied separately to documents or used in conjunction with a security classification.

37. As a general rule, markings shall be applied to information which is covered by the professional secrecy referred to in Article 339 TFEU and Article 17 of the Staff Regulations, or which has to be protected for legal reasons by Parliament but does not need to be, or cannot be, classified.

## **E.3. *Use of markings in the CIS***

38. The rules on the use of the markings are also applicable within the accredited CIS.

39. The SAA shall establish specific rules on the use of markings in the accredited CIS.

## **F. RECEPTION OF INFORMATION**

40. Only the CIU shall be entitled within Parliament to receive information classified as CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent from third parties.

41. As to information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information', both the CIU or the competent parliamentary body/office-holder may be responsible for receiving it from third parties, and for applying the principles set out in this security notice.

## **G. REGISTRATION**

42. Registration means the application of procedures for recording the life-cycle of confidential information, including its dissemination, consultation and destruction.

43. For the purposes of this security notice, 'logbook' means a register which records in particular the dates and times when confidential information:

- (a) enters or exits the respective secretariat of the parliamentary body/office-holder or, as the case may be, the CIU;
- (b) is accessed by or transmitted to a security-cleared person; and
- (c) is destroyed.

44. The originator of classified information shall be responsible for marking the initial declaration upon the creation of a document containing such information. That declaration shall be communicated to the CIU when the document is created.

45. Information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent may only be registered by the CIU for security purposes. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' received from third parties shall be registered by the service responsible for the official reception of the document, being either the CIU or the secretariat of the parliamentary body/office-holder, for administrative purposes. 'Other confidential information' produced within Parliament shall be registered by the originator, for administrative purposes.

46. Information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent shall be registered especially when:

- (a) it is produced;
- (b) it arrives at or leaves the CIU; and
- (c) it arrives at or leaves the CIS.

47. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent shall be registered especially when:

- (a) it is produced;
- (b) it arrives at or leaves the respective secretariat of the parliamentary body/office-holder or the CIU; and
- (c) it arrives at or leaves the CIS.

48. Registration of confidential information may be carried out on paper or in electronic logbooks/CIS.

49. For information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information', at least the following shall be recorded:

- (a) the date and time when it enters or leaves the respective secretariat of the parliamentary body/office-holder or the CIU, as the case may be;
- (b) the document title, the classification level or marking, the expiry date of the classification/markings and any reference number assigned to the document.

50. For information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent, at least the following shall be recorded:

- (a) the date and time when it enters or leaves the CIU;
- (b) the document title, classification level or marking, any reference number assigned to the document and the expiry date of the classification/markings;
- (c) details of the originator;

- (d) a record of the identity of any person who is given access to the document, and of the date when it was accessed by that person;
- (e) a record of any copies or translations made of the document;
- (f) the date and time when any copies or translations of the document leave or return to the CIU, and details of where they have been sent and who has returned them;
- (g) the date and time when the document is destroyed, and by whom, in accordance with Parliament's security rules on destruction; and
- (h) the declassification or downgrading of the document.

51. Logbooks shall be classified or marked as appropriate. Logbooks for information classified at the level TRES SECRET UE/EU TOP SECRET or its equivalent shall be registered at the same level.

52. Classified information may be registered:

- (a) in a single logbook; or
- (b) in separate logbooks according to its classification level, its status as incoming or outgoing information and its origin or destination.

53. In the case of electronic handling within the CIS, registration procedures may be carried out by those means within the CIS itself which meet requirements equivalent to those specified above. Whenever EUCI leaves the perimeter of the CIS, the registration procedure described above shall apply.

54. The CIU shall keep a record of all classified information released by Parliament to third parties and of classified information received by Parliament from third parties.

55. Once registration of information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent is complete, the CIU shall check whether the addressee has a valid security authorisation. Where this is the case, the addressee shall be notified by the CIU. The consultation of classified information may only take place once the document containing it has been registered.

## H. DISTRIBUTION

56. The originator shall establish the initial distribution list for the EUCI which he/she has created.

57. Information classified at the level RESTREINT UE/EU RESTRICTED and 'other confidential information' produced by Parliament shall be distributed within Parliament by the originator, in accordance with the relevant handling instructions and on the basis of the 'need-to-know' principle. For information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET created by Parliament within the Secure Area, the distribution list (and any further instructions concerning distribution) shall be provided to the CIU, which shall be responsible for its management.

58. EUCI produced by Parliament may be distributed to third parties only by the CIU, on the basis of the 'need to know' principle.

59. Confidential information received either by the CIU or by any parliamentary body/office-holder who submitted the request therefor shall be distributed in accordance with the instructions received from the originator.

**I. HANDLING, STORAGE AND CONSULTATION**

60. Handling, storage and consultation of confidential information shall be carried out in accordance with security notice 4 and the handling instructions.

**J. COPYING/TRANSLATING/INTERPRETING CLASSIFIED INFORMATION**

61. Documents containing information classified at the level TRES SECRET UE/EU TOP SECRET or its equivalent shall not be copied or translated without the prior written consent of the originator. Documents containing information classified at the level SECRET UE/EU SECRET or its equivalent or at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent may be copied or translated on instruction from the holder, provided the originator has not prohibited this.

62. Each copy of a document containing information classified at the level TRES SECRET UE/EU TOP SECRET, SECRET UE/EU SECRET or CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent shall be registered for security purposes.

63. The security measures applicable to the original document containing classified information shall apply to copies and translations thereof.

64. Documents received from the Council should be received in all official languages.

65. Copies and/or translations of documents containing classified information may be requested by the originator or copy holder. Copies of documents containing information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent may only be produced in the Secure Area and on copiers which are part of an accredited CIS. Copies of documents containing information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' shall be made using an accredited reproduction device within Parliament's premises.

66. All copies and translations of any document or parts of copies of documents containing confidential information shall be appropriately marked, numbered and registered.

67. No more copies shall be made than are strictly necessary. All copies shall be destroyed in accordance with the handling instructions at the end of the consultation period.

68. Only interpreters and translators who are Parliament officials shall be given access to classified information.

69. Interpreters and translators with access to documents containing information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent shall have the appropriate security clearance.

70. When working on documents containing information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent, interpreters and translators shall work in the Secure Area.

**K. DOWNGRADING, DECLASSIFYING AND UNMARKING OF CONFIDENTIAL INFORMATION****K.1. *General principles***

71. Confidential information shall be declassified, downgraded or unmarked when protection is no longer necessary or is no longer needed at the original level.

72. Decisions to downgrade, declassify or unmark information contained in documents produced within Parliament may also have to be made on an ad hoc basis, for example in response to a request for access from the public or from another Union Institution, or at the initiative of the CIU or parliamentary body/office-holder.

73. At the time of its creation, the originator of EUCI shall indicate, where possible, whether the EUCI in question can be downgraded or declassified on a given date or following a specific event. When it is not practicable to give such an indication, the originator, the CIU or the parliamentary body/office-holder holding the information shall review the classification level of EUCI at least once every five years. In all instances, EUCI may be downgraded or declassified only with the prior written consent of the originator.

74. In the event that the originator of EUCI cannot be established or traced in respect of documents produced within Parliament, the SA shall review the classification level of the EUCI in question on the basis of a proposal from the parliamentary body/office-holder holding the information, which may consult the CIU in that regard.

75. The CIU or the parliamentary body/office-holder holding the information shall be responsible for notifying the addressee(s) that the information has been declassified or downgraded, and the addressee(s) shall in turn be responsible for notifying any subsequent addressee(s) to whom they have sent or copied the document.

76. The declassification, downgrading or unmarking of information contained in a document shall be recorded.

**K.2. *Declassification***

77. EUCI may be declassified in full or in part. It may be declassified in part when protection is no longer deemed necessary for a specific part of the document containing it but continues to be justified for the rest of the document.

78. When the review of EUCI contained in a document created within Parliament results in a decision to declassify it, consideration shall be given to the question whether the document may be made public or whether it is to bear a distribution marking (i.e. not be made public).

79. When EUCI is declassified, its declassification shall be recorded in the logbook with the following data: date of the declassification, names of the persons who requested and who authorised the declassification, reference number of the declassified document and its final destination.

80. The old classification markings in the declassified document and in all copies thereof shall be struck through. The documents and all copies thereof shall be stored accordingly.

81. Upon partial declassification of classified information, the part that has been declassified shall be produced in the form of an extract and stored appropriately. The competent service shall register:

- (a) the date of the partial declassification;
- (b) the names of the persons who requested and who authorised the declassification; and
- (c) the reference number of the declassified extract.

**K.3. Downgrading**

82. Following the downgrading of classified information, the document containing it shall be registered in the logbooks corresponding to both the old and the new classification level. The date of downgrading shall be recorded, as well as the name of the person who authorised it.

83. The document containing the downgraded information and all copies thereof shall be classified with the new classification level and stored appropriately.

**L. DESTRUCTION OF CONFIDENTIAL INFORMATION**

84. Confidential information (in either hard copy or electronic form) which is no longer required shall be destroyed or deleted, in accordance with the handling instructions and relevant rules on archiving.

85. Information classified at the level TRES SECRET UE/EU TOP SECRET or SECRET UE/EU SECRET or its equivalent, shall be destroyed by the CIU. Its destruction shall be witnessed by a person holding security clearance corresponding to at least the classification level of the information being destroyed.

86. Information classified at the level TRES SECRET UE/EU TOP SECRET or its equivalent shall be destroyed only with the prior written consent of the originator.

87. Information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent shall be destroyed and disposed of by the CIU on instruction from the originator or from a competent authority. The logbooks and other registers shall be updated accordingly. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent shall be destroyed and disposed of either by the CIU or by the relevant parliamentary body/office-holder.

88. The official responsible for the destruction and the person witnessing the destruction shall sign a destruction certificate, to be filed and archived in the CIU. The CIU shall keep, together with the distribution forms, destruction certificates relating to information classified at the level TRES SECRET UE/EU TOP SECRET or its equivalent for a period of at least ten years, and, in the case of information classified at the level SECRET UE/EU SECRET or its equivalent and CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent, for a period of at least five years.

89. Documents containing classified information shall be destroyed by methods which meet the relevant Union standards or equivalent standards so as to prevent them from being reconstructed in whole or in part.

90. The destruction of computer storage media used for classified information shall be carried out in accordance with the relevant handling instructions.

91. Destruction of classified information shall be recorded in the relevant logbook with the following data:

- (a) date and time of destruction;
- (b) name of the official responsible for destruction;
- (c) identification of the document or copies destroyed;
- (d) original physical form of the destroyed EUCI;

(e) means of destruction; and

(f) place of destruction.

#### M. ARCHIVING

92. Classified information, including any cover note/letter, annexes, deposit slip and/or other parts of the dossier, shall be transferred to the secure archive in the Secure Area six months after it was last consulted and, at the latest, one year after it was deposited. Detailed rules on the archiving of classified information shall be laid down in the handling instructions.

93. For 'other confidential information', the general rules on document management shall apply without prejudice to any other specific provisions on its handling.

#### SECURITY NOTICE 3

THE PROCESSING OF CONFIDENTIAL INFORMATION BY MEANS OF AUTOMATED COMMUNICATION INFORMATION SYSTEMS (CIS)

##### A. INFORMATION ASSURANCE OF CLASSIFIED INFORMATION HANDLED IN INFORMATION SYSTEMS

1. 'Information assurance' (IA) in the field of information systems is the confidence that such systems will protect the classified information they handle and will function as they need to and when they need to, under the control of legitimate users. Effective IA shall ensure appropriate levels of confidentiality, integrity, availability, non-repudiation and authenticity. IA shall be based on a risk management process.

2. 'Communication Information System' (CIS) for the handling of classified information means a system enabling information to be handled in electronic form. Such an information system shall comprise the entire assets required for it to operate, including the infrastructure, organisation, personnel and information resources.

3. CIS shall handle classified information in accordance with the concept of IA.

4. CIS shall undergo an accreditation process. Accreditation shall aim at obtaining assurance that all appropriate security measures have been implemented and that a sufficient level of protection of the classified information and of the CIS has been achieved in accordance with this security notice. The accreditation statement shall determine the maximum classification level of the information that may be handled in the CIS as well as the corresponding terms and conditions.

5. The following IA properties and concepts are essential for the security and correct functioning of CIS operations:

(a) authenticity: the guarantee that information is genuine and that it emanates from bona fide sources;

b) availability: the property of being accessible and usable upon request by an authorised entity;

(c) confidentiality: the property that information is not to be disclosed to unauthorised individuals, entities or processes;

- (d) integrity: the property of safeguarding the accuracy and completeness of information and assets;
- (e) non-repudiation: the ability to prove that an action or event has taken place, so as to preclude the possibility of any subsequent denial of that event or action.

## B. INFORMATION ASSURANCE PRINCIPLES

6. The provisions set out below shall form the baseline for the security of any CIS handling classified information. Detailed requirements for implementing these provisions shall be defined in IA security policies and security guidelines.

### B.1. *Security risk management*

7. Security risk management shall be an integral part of defining, developing, operating and maintaining CIS. Risk management (assessment, treatment, acceptance and communication) shall be conducted as an iterative process jointly by representatives of the system owners, project authorities, operating authorities and security approval authorities, as laid down in security notice 1, using a proven, transparent and understandable risk assessment process. The scope of the CIS and its assets shall be clearly defined at the outset of the risk management process.

8. The competent authorities, as laid down in security notice 1, shall review the potential threats to CIS and shall maintain up-to-date and accurate threat assessments which reflect the current operational environment. They shall constantly update their knowledge of vulnerability issues and periodically review the vulnerability assessment to keep up with the changing information technology (IT) environment.

9. The aim of security risk treatment shall be to apply a set of security measures which results in a satisfactory balance between user requirements, cost and residual security risk.

10. Accreditation of a CIS shall include a formal residual risk statement and acceptance of the residual risk by a responsible authority. The specific requirements, scale and degree of detail determined by the relevant SAA for accrediting a CIS shall be commensurate with the risk assessed, taking account of all relevant factors, including the classification level of the classified information handled in the CIS.

### B.2. *Security throughout the CIS life cycle*

11. Ensuring security shall be a requirement throughout the entire CIS life cycle, from initiation to withdrawal from service.

12. The role and interaction of each actor involved in CIS with regard to its security shall be identified for each phase of the life cycle.

13. CIS, including its technical and non-technical security measures, shall be subject to security testing during the accreditation process to ensure that the appropriate level of assurance is obtained and to verify that the CIS, including its technical and non-technical security measures, are correctly implemented, integrated and configured.



14. Security assessments, inspections and reviews shall be performed periodically during the operation and maintenance of CIS and when exceptional circumstances arise.
15. Security documentation for CIS shall evolve over its life cycle as an integral part of the process of change management.
16. Registration procedures performed by a CIS, where required, shall be verified as part of the accreditation process.

### B.3. *Best practice*

17. The IAA shall develop best practice for protecting classified information handled by the CIS. Best practice guidelines shall set out technical, physical, organisational and procedural security measures for CIS with proven effectiveness in countering given threats and vulnerabilities.
18. The protection of classified information handled by the CIS shall draw on lessons learned by entities involved in IA.
19. The dissemination and subsequent implementation of best practice shall help to achieve an equivalent level of assurance for the CIS operated by the Parliament secretariat which handles classified information.

### B.4. *Defence in depth*

20. In order to mitigate risk to CIS, a range of technical and non-technical security measures, organised as multiple layers of defence, shall be implemented. Those layers shall include:
  - (a) deterrence: security measures aimed at dissuading any adversary planning to attack the CIS;
  - (b) prevention: security measures aimed at impeding or blocking an attack on the CIS;
  - (c) detection: security measures aimed at discovering the occurrence of an attack on the CIS;
  - (d) resilience: security measures aimed at limiting the impact of an attack to a minimum set of information or CIS assets and preventing further damage; and
  - (e) recovery: security measures aimed at regaining a secure situation for the CIS.

The degree of stringency of such security measures shall be determined following a risk assessment.

21. The competent authorities, as specified in security notice 1, shall ensure that they can respond to incidents which may transcend organisational boundaries in such a way as to coordinate responses and share information about those incidents and the related risks (computer emergency response capabilities).

### B.5. *Principle of minimalist and least privilege*

22. In order to avoid unnecessary risk, only the essential functionalities, devices and services needed to meet operational requirements shall be implemented.
23. CIS users and automated processes shall be given only the access, privileges or authorisations they require in order to perform their tasks, so as to limit any damage resulting from accidents, errors, or unauthorised use of CIS resources.

**B.6. Information Assurance awareness**

24. Awareness of the risks and available security measures is the first line of defence for the security of CIS. In particular, all personnel involved in the life cycle of CIS, including users, shall understand:

- (a) that security failures may significantly harm the CIS handling classified information;
- (b) the potential harm to others which may arise from interconnectivity and interdependency; and
- (c) their individual responsibility and accountability for the security of CIS according to their roles within the systems and processes.

25. In order to ensure that security responsibilities are understood, IA education and awareness training shall be mandatory for all personal involved, including senior management, Members of the European Parliament and CIS users.

**B.7. Evaluation and approval of IT-security products**

26. CIS handling information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent shall be protected in such a way that the information cannot be compromised by unintentional electromagnetic emanations ('TEMPEST security measures').

27. Where the protection of classified information is provided by cryptographic products, such products shall be certified by the SAA as EU-approved cryptographic products.

28. During transmission of classified information by electronic means, EU-approved cryptographic products shall be used. Notwithstanding this requirement, specific procedures or specific technical configurations may be applied in emergency circumstances as specified in points 41 to 44.

29. The requisite degree of confidence in the security measures, defined as a level of assurance, shall be determined following the outcome of the risk management process and in line with the relevant security policies and guidelines.

30. The level of assurance shall be verified by using internationally recognised or nationally approved processes and methodologies. This includes primarily evaluation, controls and auditing.

31. The SAA shall approve security guidelines on the qualification and approval of non-cryptographic IT security products.

**B.8. Transmission within the Secure Area**

32. When transmission of classified information is confined within the Secure Area, unencrypted distribution or encryption at a lower level may be used, based on the outcome of a risk management process and subject to the approval of the SAA.

**B.9. *Secure interconnection of CIS***

33. Interconnection shall mean the direct connection of two or more IT systems for the purpose of sharing data and other information resources in a unidirectional or multidirectional way.

34. CIS shall treat any interconnected IT system as untrustworthy and shall implement protective measures to control the exchange of classified information with any other CIS.

35. For all interconnections of CIS with another IT system the following basic requirements shall be met:

- (a) business or operational requirements for such interconnections shall be stated and approved by the competent authorities;
- (b) the interconnection in question shall undergo a risk management and accreditation process and shall require the approval of the competent SAA;
- (c) protection services (PS) shall be implemented at the perimeter of CIS.

36. There shall be no interconnection between an accredited CIS and an unprotected or public network, except where the CIS has approved PSs installed for such a purpose between the CIS and the unprotected or public network. The security measures for such interconnections shall be reviewed by the competent IAA and approved by the competent SAA.

37. When the unprotected or public network is used solely as a carrier and the data is encrypted by an EU cryptographic product certified in accordance with paragraph 27, such a connection shall not be deemed to be an interconnection.

38. The direct or cascaded interconnection to an unprotected or public network of a CIS accredited to handle information classified at the level TRES SECRET UE/EU TOP SECRET or its equivalent or SECRET UE/EU SECRET or its equivalent shall be prohibited.

**B.10. *Computer storage media***

39. Computer storage media shall be destroyed in accordance with procedures approved by the competent security authority.

40. Computer storage media shall be reused, downgraded or declassified in accordance with the handling instructions.

**B.11. *Emergency circumstances***

41. The specific procedures described below may be applied in an emergency, such as during situations of impending or actual crisis, conflict or war, or in exceptional operational circumstances.

42. Classified information may, with the consent of the competent authority, be transmitted using cryptographic products which have been approved for a lower classification level or without encryption if any delay would cause harm clearly outweighing the harm entailed by any disclosure of the classified material and if:

- (a) the sender and the recipient do not have the required encryption facility or have no encryption facility; and
- (b) the classified material cannot be conveyed in sufficient time by other means.

43. Classified information transmitted under the circumstances set out in paragraph 41 shall not bear any markings or indications distinguishing it from information which is unclassified or which can be protected by an available cryptographic product. Recipients shall be notified of the classification level, without delay, by other means.

44. Should recourse be had to paragraph 41 or 42 a subsequent report shall be made to the competent authority.

#### **SECURITY NOTICE 4**

##### **PHYSICAL SECURITY**

###### **A. INTRODUCTION**

This security notice sets out the security principles for creating a secure environment for ensuring the correct treatment of confidential information in the European Parliament. These principles, including those relating to technical security, will be supplemented by the handling instructions.

###### **B. SECURITY RISK MANAGEMENT**

1. Risk to classified information shall be managed as a process. That process shall be aimed at determining known security risks, at defining security measures to reduce such risks to an acceptable level in accordance with the basic principles and minimum standards set out in this security notice, and at applying those measures in line with the concept of defence in depth as defined in security notice 3. The effectiveness of such measures shall be continuously evaluated.

2. Security measures for protecting classified information throughout its life cycle shall be commensurate with, in particular, its security classification, the form and volume of the information or material concerned, the location and construction of facilities housing classified information and the locally assessed threat of malicious and/or criminal activities, including espionage, sabotage and terrorism.

3. Contingency plans shall take account of the need to protect classified information during emergency situations in order to prevent unauthorised access, disclosure or loss of integrity or availability.

4. Preventive and recovery measures to minimise the impact of major failures or incidents on the handling and storage of classified information shall be included in business continuity plans.

###### **C. GENERAL PRINCIPLES**

5. The classification or marking level assigned to the information shall determine the level of protection afforded to it in the areas of physical security.

6. Information which warrants classification shall be marked and handled as such regardless of its physical form. Its classification shall be clearly communicated to its recipients, either by a classification marking (if it is delivered in written form, be it on paper or in CIS) or by an announcement (if it is delivered in oral form, such as in a conversation or a presentation). Classified material shall be physically marked so as to enable its security classification to be easily identified.

7. Confidential information shall not, under any circumstances, be read in public places where it might be seen by an individual without a need to know, e.g. on trains or in planes, cafes, bars etc. It shall not be left in hotel safes or rooms, or left unattended in public places.

**D. RESPONSIBILITIES**

8. The CIU is responsible for ensuring physical security in the management of confidential information deposited in its secure facilities. The CIU is also responsible for the management of its secure facilities.

9. Physical security in the management of information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and of 'other confidential information' is the responsibility of the respective parliamentary body/office-holder.

10. The Directorate for Security and Risk Assessment shall ensure the personal security and security clearance needed to ensure the secure handling of confidential information in the European Parliament.

11. The DIT shall advise and ensure that any created or used CIS is fully in compliance with security notice 3 and the respective handling instructions.

**E. SECURE FACILITIES**

12. Secure facilities may be installed under the technical security standards and in accordance with the level assigned to the confidential information as defined in Article 7.

13. The secure facilities shall be certified by the SAA and validated by the SA.

**F. CONSULTATION OF CONFIDENTIAL INFORMATION**

14. When information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' is deposited with the CIU and has to be consulted outside the Secure Area, the CIU shall transmit a copy to the appropriate authorised service which shall ensure that consultation and handling of the information in question complies with Article 8(2) and Article 10 of this Decision and the appropriate handling instructions.

15. When information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' is deposited with a parliamentary body/office-holder other than the CIU, the secretariat of that parliamentary body/office-holder shall ensure that consultation and handling of the information in question complies with Article 7(3), Article 8(1), (2) and (4), Article 9(3), (4) and (5), Article 10(2) to (6), and Article 11 of this Decision and the appropriate handling instructions.

16. When information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET, or its equivalent has to be consulted in the Secure Area, the CIU shall ensure that consultation and handling of the information in question complies with Articles 9 and 10 of this Decision and the appropriate handling instructions.

**G. TECHNICAL SECURITY**

17. Technical security measures are the responsibility of the SAA, who shall determine in the appropriate handling instructions the specific technical security measures which are to apply.

18. Secure Reading Rooms for consultation of information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and of 'other confidential information' shall comply with specific technical security measures, as provided for in the handling instructions.

19. The Secure Area shall comprise the following facilities:

- (a) a Security Access Screening Room (SAS), to be installed in accordance with the technical security measures laid down in the handling instructions. Access to this facility shall be registered. The SAS shall meet high standards in terms of identification of persons with access, video registering, and secure space in which to deposit personal elements that are not allowed in the secured rooms (telephones, pens, etc.);
- (b) a communication room for transmission and receipt of classified information, including encrypted classified information, in accordance with security notice 3 and the respective handling instructions;
- (c) a secure archive, in which approved and certified containers shall be used separately for information classified at the level RESTREINT UE/EU RESTRICTED, CONFIDENTIEL UE/EU CONFIDENTIAL and/or SECRET UE/EU SECRET or its equivalent. Information classified at the level TRES SECRET UE/EU TOP SECRET or its equivalent shall be placed in a separate room in a specific certified container. The only additional material available in that separate room shall be the support desk for handling the archive by the CIU;
- (d) a registry room, which shall provide the tools needed to ensure that registration can be done on paper or electronically and shall thus be equipped with the secure facilities needed for the installation of the appropriate CIS. Only the registry room may contain approved and accredited reproduction devices (for making copies in paper or electronic form). The handling instructions shall specify which reproduction devices are approved and accredited. The registry room shall also provide the space needed in order for accredited material to be stored and handled so as to allow for the marking, copying and dispatching of classified information in physical form, by level of classification. All accredited material shall be defined by the CIU and accredited by the SAA, in accordance with the advice received from the IAOA. The registry room shall also be equipped with the accredited destruction device approved for the highest level of classification, as described in the handling instructions. Translation of information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL EU, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent shall be done in the registry room, in the appropriate and accredited system. The registry room shall provide work stations for up to two translators at a time and for the same document. One staff member of the CIU shall be present;
- (e) a reading room, for individual consultation of classified information by duly authorised persons. The reading room shall have enough space for two persons, including a staff member of the CIU who shall be present throughout each consultation. The security level of this room shall be adequate for the consultation of information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent. The reading room may be equipped with TEMPEST equipment so as to allow for electronic consultation, when needed, in accordance with the level of classification of the information concerned;
- (f) a meeting room, which shall be able to accommodate up to 25 persons for the purposes of discussing information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or its equivalent. The meeting room shall provide the necessary technical secure and certified facilities for interpretation into and out of up to two languages. When not used for meetings, the meeting room may also be used as an additional reading room for individual consultation. In exceptional cases, the CIU may allow more than one authorised person to consult classified information, as long as the level of clearance and the need to know is the same for all persons in the room. No more than four persons shall be allowed to consult classified information at the same time. The presence of CIU officials shall be reinforced;
- (g) technical secured rooms for lodging all technical equipment, linked to the security of the entire Secure Area, and the secured IT servers.

20. The Secure Area shall comply with the applicable international security standards and shall be certified by the Directorate for Security and Risk Assessment. The Secure Area shall contain the following minimum security technical equipment:

- (a) alarm and monitoring security systems;
- (b) safety equipment and emergency systems (two-way warning system);

- (c) a CCTV system;
- (d) an intrusion detection system;
- (e) access control (including a biometric security system);
- (f) containers;
- (g) lockers;
- (h) anti-electromagnetic protection.

21. Where additional technical security measures are needed, these may be added by the SAA, acting in close co-operation with the CIU and with the approval of the SA.

22. The infrastructure equipment may be connected to the general management systems of the building in which the Secure Area is located. However, the security equipment dedicated to access control and to the CIS shall be independent from any other such systems existing within the European Parliament.

#### H. INSPECTIONS OF THE SECURE AREA

23. Inspections of the Secure Area shall be carried out regularly by the SAA and at the request of the CIU.

24. The SAA shall draw up and keep updated the security inspection checklist of items to be verified in the course of an inspection, in line with handling instructions.

#### I. TRANSPORTATION OF CONFIDENTIAL INFORMATION

25. When carried, confidential information shall be concealed from view and shall give no indication of the confidential nature of its content, in accordance with the handling instructions.

26. Only messengers or staff with the appropriate level of security authorisation may carry information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent.

27. Confidential information may only be despatched by external mail or carried by hand outside a building in accordance with the conditions laid down in the handling instructions.

28. Information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent shall never be sent by e-mail or fax, even via a 'secure' e-mail system or a crypto-fax machine. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and other confidential information may be sent by e-mail using an accredited encryption system.

#### J. STORAGE OF CONFIDENTIAL INFORMATION

29. The classification or marking level assigned to confidential information shall determine the level of protection afforded to it with a view to its storage. It shall be stored in the equipment certified for that purpose, in accordance with the handling instructions.

30. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' shall:

- (a) be stored in a standard-issue, steel, locked, cupboard, either within an office or in a working area, when it is not actually being used;
- (b) not be left unattended, unless properly locked and stored;
- (c) not be left on a desk, table, etc. in such a way that it may be read or removed by any non-authorised individuals, e.g. visitors, cleaners, maintenance personnel, etc.;
- (d) not be shown to, or discussed with, any non-authorised individual.

31. Information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent and 'other confidential information' shall be stored only within the secretariats of the parliamentary bodies/office-holders, or in the CIU, in accordance with the handling instructions.

32. Information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent shall:

- (a) be stored in the Secure Area, in a security container or in a strongroom. Exceptionally, for example if the CIU is closed, it may be stored in an approved and certified safe deposit within the security services;
- (b) not be left unattended within the Secure Area at any time, without first having been locked in an approved safe (even for the briefest of absences);
- (c) not be left on a desk, table etc in such a way that it may be read or removed by a non-authorised person, even if the responsible staff member of the CIU remains in the room.

Where a document containing classified information is being produced in electronic form within the Secure Area, the computer shall be locked, and the screen rendered inaccessible if the originator or the responsible staff member of the CIU leaves the room (even for the briefest of absences). An automatic security lock cutting in after a few minutes shall not be considered a sufficient measure.

## SECURITY NOTICE 5

### INDUSTRIAL SECURITY

#### A. INTRODUCTION

1. This security notice concerns classified information only.
2. It sets out provisions for implementing the common minimum standards of Part 1 of Annex I to this Decision.
3. 'Industrial security' is the application of measures to ensure the protection of classified information by contractors or subcontractors in pre-contract negotiations and throughout the life cycle of classified contracts. Such contracts shall not involve access to information classified at the level TRÈS SECRET UE/EU TOP SECRET.
4. The European Parliament, as contracting authority, shall ensure that the minimum standards on industrial security set out in this Decision, and referred to in the contract, are complied with when awarding classified contracts to industrial or other entities.



**B. SECURITY ELEMENTS IN A CLASSIFIED CONTRACT****B.1. *Security Classification Guide (SCG)***

5. Prior to launching a call for tenders or awarding a classified contract, the European Parliament, as the contracting authority, shall determine the security classification of any information to be provided to bidders and contractors, as well as the security classification of any information to be created by the contractor. For that purpose, it shall prepare a Security Classification Guide (SCG) to be used for the performance of the contract.

6. In order to determine the level of security classification of the various elements of a classified contract, the following principles shall apply:

- (a) in preparing an SCG, the European Parliament shall take into account all relevant security aspects, including the security classification assigned to information which is provided and approved by the originator of the information for use in respect of the contract;
- (b) the overall level of classification of the contract may not be lower than the highest level of classification of any of its elements.

**B.2. *Security Aspects Letter (SAL)***

7. The contract-specific security requirements shall be described in a Security Aspects Letter (SAL). The SAL shall, where appropriate, contain the SCG and shall be an integral part of a classified contract or sub-contract.

8. The SAL shall contain the provisions requiring the contractor and/or subcontractor to comply with the minimum standards laid down in this Decision. Non-compliance with those minimum standards may constitute grounds for termination of the contract.

**B.3. *Programme/Project Security Instructions (PSI)***

9. Depending on the scope of programmes or projects involving access to or the handling or storage of EUCI, specific Programme/Project Security Instructions (PSI) may be prepared by the contracting authority designated to manage the programme or project concerned.

**C. FACILITY SECURITY CLEARANCE (FSC)**

10. An FSC shall be granted by the NSA or any other competent security authority of a Member State to indicate, in accordance with national laws and regulations, that an industrial or other entity is capable of protecting EUCI at the level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET or its equivalent within its facilities. Evidence of the grant of the FSC shall be presented to the European Parliament, as the contracting authority, before a contractor or subcontractor or potential contractor or subcontractor is provided with, or granted access to, EUCI.

11. An FSC shall:

- (a) evaluate the integrity of the industrial or other entity;
- (b) evaluate ownership, control, and/or any potential for undue influence that may be considered a security risk;

- (c) verify that the industrial or any other entity has established a security system at its facility which covers all appropriate security measures necessary for the protection of information or material classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET in accordance with the requirements laid down in this Decision;
- (d) verify that the personnel security status of management, owners and employees who are required to have access to information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET has been established in accordance with the requirements laid down in this Decision; and
- (e) verify that the industrial or any other entity has appointed a Facility Security Officer who is responsible to its management for enforcing the security obligations within such an entity.

12. Where relevant, the European Parliament, as the contracting authority, shall notify the appropriate NSA or other competent security authority that an FSC is required at the pre-contractual stage or for the performance of the contract. An FSC or Personal Security Clearance (PSC) shall be required at the pre-contractual stage where information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET has to be provided in the course of the bidding process.

13. The contracting authority shall not award a classified contract to a preferred bidder until it has received confirmation from an NSA or other competent security authority of the Member State in which the contractor or subcontractor concerned is registered that, where required, an appropriate FSC has been issued.

14. Any competent security authority which has issued an FSC shall notify the European Parliament, as contracting authority, about any changes affecting that FSC. In the case of a sub-contract, the competent security authority shall be informed accordingly.

15. Withdrawal of an FSC by the relevant NSA or other competent security authority shall constitute sufficient grounds for the European Parliament, as the contracting authority, to terminate a classified contract or exclude a bidder from the competition.

#### D. CLASSIFIED CONTRACTS AND SUBCONTRACTS

16. Where classified information is provided to potential bidders at the pre-contractual stage, the invitation to bid shall contain a provision obliging any of them that fail to submit a bid or that are not selected to return all classified documents within a specified period.

17. Once a classified contract or subcontract has been awarded, the European Parliament, as the contracting authority, shall notify the NSA of the contractor or subcontractor and/or any other competent security authority about the security provisions of the classified contract.

18. Upon the termination of such a contract, the European Parliament, as the contracting authority (and/or the competent security authority, as appropriate, in the case of a subcontract) shall promptly notify the NSA or any other competent security authority of the Member State in which the contractor or subcontractor is registered.

19. As a general rule, the contractor or subcontractor shall be required, upon termination of the classified contract or subcontract, to return to the contracting authority any classified information held by it.

20. Specific provisions for the disposal of classified information during the performance of the contract or upon its termination shall be laid down in the SAL.

21. Where the contractor or subcontractor is authorised to retain classified information after termination of a contract, the minimum standards contained in this Decision shall continue to apply and the confidentiality of EUCI shall be protected by the contractor or subcontractor.

22. The conditions under which the contractor may subcontract shall be defined in the call for tenders and in the contract.

23. A contractor shall obtain permission from the European Parliament, as the contracting authority, before subcontracting any parts of a classified contract. No subcontract may be awarded to industrial or other entities registered in a third State which has not concluded a security of information agreement with the Union.

24. The contractor shall be responsible for ensuring that all subcontracting activities are undertaken in accordance with the minimum standards laid down in this Decision and shall not provide EUCI to a subcontractor without the prior written consent of the contracting authority.

25. With regard to classified information created or handled by the contractor or subcontractor, the rights vested in the originator shall be exercised by the contracting authority.

#### **E. VISITS IN CONNECTION WITH CLASSIFIED CONTRACTS**

26. Where the European Parliament, contractors or subcontractors require access to information classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET in each other's premises for the performance of a classified contract, visits shall be arranged in liaison with the NSAs or any other competent security authority concerned. However, in the context of specific projects, the NSAs may also agree on a procedure whereby such visits can be arranged directly.

27. All visitors shall hold an appropriate PSC and have a 'need to know' for access to the classified information related to the European Parliament contract.

28. Visitors shall be given access only to classified information which relates to the purpose of the visit.

#### **F. TRANSMISSION AND CARRIAGE OF CLASSIFIED INFORMATION**

29. With regard to the transmission of classified information by electronic means, the relevant provisions of security notice 3 shall apply.

30. With regard to the transport of classified information, the relevant provisions of security notice 4 and the relevant handling instructions shall apply.

31. For the transport of classified material as freight, the following principles shall be applied when determining security arrangements:

- (a) security shall be assured at all stages during transportation from the point of origin to the final destination;
- (b) the degree of protection afforded to a consignment shall be determined by the highest classification level of material contained within it;
- (c) an FSC at the appropriate level shall be obtained for companies providing transportation. In such cases, personnel handling the consignment shall be security cleared in accordance with Annex I;

- (d) prior to any cross-border movement of material classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or as SECRET UE/EU SECRET or its equivalent, a transportation plan shall be drawn up by the consignor and approved by the Secretary-General;
- (e) journeys shall as far as possible be undertaken from a given point of departure to a given destination point, and shall be completed as quickly as circumstances permit;
- (f) the route taken shall wherever possible pass through the territory of Member States.

#### G. TRANSFER OF CLASSIFIED INFORMATION TO CONTRACTORS LOCATED IN THIRD STATES

32. Classified information shall be transferred to contractors and subcontractors located in third States in accordance with security measures agreed between the European Parliament, as the contracting authority, and the third State concerned in which the contractor is registered.

#### H. HANDLING AND STORAGE OF INFORMATION CLASSIFIED AT THE LEVEL RESTREINT UE/EU RESTRICTED

33. In liaison, as appropriate, with the NSA of the Member State concerned, the European Parliament, as the contracting authority, shall be entitled to conduct visits to contractors'/subcontractors' facilities on the basis of contractual provisions in order to verify that the relevant security measures for the protection of EUCI at the level RESTREINT UE/EU RESTRICTED, as required under the contract, have been put in place.

34. To the extent necessary under national laws and regulations, NSAs or any other competent security authorities shall be notified by the European Parliament, as the contracting authority, of contracts or subcontracts containing information classified at the level RESTREINT UE/EU RESTRICTED.

35. An FSC or a PSC for contractors or subcontractors and their personnel shall not be required in the case of contracts awarded by the European Parliament which contain information classified at the level RESTREINT UE/EU RESTRICTED.

36. The European Parliament, as the contracting authority, shall examine the responses to invitations to tender for contracts which require access to information classified at the level RESTREINT UE/EU RESTRICTED, notwithstanding any requirements relating to FSCs or PSCs which may exist under national laws and regulations.

37. The conditions under which the contractor may subcontract shall be defined in the call for tenders and in the contract.

38. Where a contract involves the handling of information classified at the level RESTREINT UE/EU RESTRICTED in communication and information systems operated by a contractor, the European Parliament, as contracting authority, shall ensure that the contract or any subcontract specifies the necessary technical and administrative requirements regarding accreditation of the communication and information systems commensurate with the assessed risk, taking account of all relevant factors. The scope of accreditation of such communication and information systems shall be agreed between the contracting authority and the relevant NSA.

#### SECURITY NOTICE 6

##### BREACHES OF SECURITY, LOSS OR COMPROMISE OF CONFIDENTIAL INFORMATION

1. A breach of security occurs as the result of an act or omission contrary to this Decision which might endanger or compromise confidential information.

2. Compromise of confidential information occurs when it has fallen, wholly or in part, into the hands of unauthorised persons, i.e. persons having neither the appropriate security clearance or the necessary need-to-know, or if the likelihood exists of such an event having occurred.

3. Confidential information may be compromised as a result of carelessness, negligence or indiscretion, as well as by the activities of services which target the Union or of subversive organisations.

4. In the event that the Secretary-General discovers or is informed of a proven or suspected breach of security, loss or compromise relating to confidential information, he/she shall:

- (a) establish the facts;
- (b) assess and minimise the damage done;
- (c) take action to prevent a recurrence;
- (d) notify the competent authority of the third party or Member State that originated or forwarded the confidential information.

Where the case concerns a Member of the European Parliament, the Secretary-General shall act in liaison with the President of Parliament.

If the information is received from another Union Institution, the Secretary-General shall act in conformity with the appropriate security measures for classified information and the established arrangements laid down pursuant to the Framework Agreement with the Commission or the Interinstitutional Agreement with the Council.

5. All persons required to handle confidential information shall be thoroughly briefed on security procedures, the dangers of indiscreet conversation and their relationships with the media, and shall, where appropriate, sign a declaration that they will not disclose the contents of confidential information to third persons, that they will respect the obligation to protect classified information and that they acknowledge the consequences of any failure to do so. The access to or use of classified information by a person who has not been briefed and signed the corresponding declaration shall be considered a breach of security.

6. Members of the European Parliament, parliament officials and other Parliament employees working for political groups or contractors shall immediately report to the Secretary-General any breach of security, loss or compromise of confidential information which may come to their notice.

7. Any person responsible for compromising confidential information shall be subject to disciplinary action in accordance with the relevant rules and regulations. Such action shall be without prejudice to any legal action that may be brought pursuant to the applicable law.

8. Without prejudice to other legal action, breaches committed by Parliament officials and other Parliament employees working for political groups shall entail the application of the procedures and penalties provided for in Title VI of the Staff Regulations.

9. Without prejudice to other legal action, breaches committed by Members of the European Parliament shall be dealt with in accordance with Rule 9(2) and Rules 152, 153 and 154 of Parliament's Rules of Procedure.

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1.3.1.

**PROCEDURE FOR GRANTING AUTHORISATION TO DRAW UP  
OWN-INITIATIVE REPORTS**

**DECISION OF THE CONFERENCE OF PRESIDENTS**

**OF 12 DECEMBER 2002<sup>1</sup>**

THE CONFERENCE OF PRESIDENTS,

having regard to Rules 27, 29, 132, 133, 37, 46, 49, 51, 52, 54, 216(2) and 220(1) of the Rules of Procedure;

HAS DECIDED

*Article 1*  
*General provisions*

Scope

1. This decision shall apply to the following categories of own-initiative reports:
  - (a) Legislative Own-Initiative Reports, drawn up on the basis of Article 225 of the Treaty on the Functioning of the European Union and Rule 46 of the Rules of Procedure;
  - (b) Strategic Reports, drawn up on the basis of non-legislative strategic and priority initiatives included in the Commission Work Programme;
  - (c) Non-Legislative Own-Initiative Reports, not drawn up on the basis of a document of another Institution or body of the European Union or drawn up on the basis of a document forwarded to Parliament for information, without prejudice to Article 2(3);
  - (d) Annual Activity and Monitoring Reports, as listed in Annex 1<sup>2,3</sup>

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<sup>1</sup> This decision was amended by a decision of the Conference of Presidents of 26 June 2003 and was consolidated on 3 May 2004. It was further amended as a result of decisions adopted in plenary on 15 June 2006 and 13 November 2007 and by decisions of the Conference of Presidents of 14 February 2008, 15 December 2011, 6 March 2014 and 7 April 2016, by corrigendum of 15 July 2016 and by decision of the Conference of Presidents of 3 April 2019.

<sup>2</sup> Parliamentary committees envisaging the drawing-up of annual activity and monitoring reports pursuant to Rule 132(1) of the Rules of Procedure or pursuant to other legal provisions (as included in Annex 2) shall give advance notification thereof to the Conference of Committee Chairs, indicating in particular, the relevant legal basis deriving from the Treaties and other legal provisions, including Parliament's Rules of Procedure. The Conference of Committee Chairs shall subsequently notify them to the Conference of Presidents. Such reports shall be authorised automatically and shall not be subject to the quota referred to in Article 1(2).

<sup>3</sup> In its decision of 7 April 2011, the Conference of Presidents stated that own-initiative reports drawn up on the basis of annual activity and monitoring reports listed in Annexes 1 and 2 to this decision are to be considered as strategic reports within the meaning of Rule 52(5) of the Rules of Procedure.

(e) Implementation Reports on transposition into national law, implementation and enforcement of the Treaties and other Union legislation, soft law instruments and international agreements in force or subject to provisional application<sup>4</sup>.

### Quota

2. During the first half of a parliamentary term, each parliamentary committee may simultaneously draft up to six own-initiative reports. For committees with subcommittees, that quota shall be increased by three reports per subcommittee. Those additional reports shall be drawn up by the sub-committee.

During the second half of a parliamentary term, each parliamentary committee may simultaneously draft up to three own-initiative reports. For committees with subcommittees, that quota shall be increased by two reports per subcommittee. Those additional reports shall be drawn up by the sub-committee.

The following shall not be subject to such ceilings:

- legislative own-initiative reports;
- implementation reports (each committee may draw up such a report at any time).

### Minimum period before adoption

3. The parliamentary committee seeking authorisation may not adopt the report in question within the three months following the date of authorisation or, in the case of notification, within the three months following the date of the meeting of the Conference of Committee Chairs at which the report was notified.

### *Article 2* *Conditions for authorisation*

1. The proposed report must not deal with topics principally involving analysis and research activities which may be covered in other ways, for example by studies.
2. The proposed report must not deal with topics which have already been the subject of a report adopted in plenary during the previous 12 months, save where new information justifies it on an exceptional basis.
3. With regard to reports to be drawn up on the basis of a document forwarded to Parliament for information, the following conditions shall apply:
  - the basic document must be an official document from an institution or body of the European Union and must
    - (a) have been forwarded officially to Parliament for consultation or information, or
    - (b) have been published in the *Official Journal of the European Union* for the

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<sup>4</sup> See Annex 3 to this Decision.

purpose of consultations with interested parties, or  
(c) have been officially submitted to the European Council;

- the document must have been forwarded in all the official languages of the European Union; and
- the request for authorisation must be submitted no later than four months after the date on which the document in question was forwarded to Parliament or on which it was published in the *Official Journal of the European Union*.

### *Article 3* *Procedure*

#### Automatic authorisation

1. Authorisation shall be granted automatically after notification of the request to the Conference of Committee Chairs for
  - implementation reports;
  - annual activity and monitoring reports, as listed in Annex 1.

#### Role of the Conference of Committee Chairs

2. Duly substantiated requests for authorisation shall be forwarded to the Conference of Committee Chairs, which shall ascertain their compliance with the criteria set out in Articles 1 and 2 and with the quota established in Article 1. All such requests shall contain an indication of the type and the exact title of the report and the basic document(s), if any.
3. Authorisations to draw up strategic reports shall be granted by the Conference of Committee Chairs after resolution of any conflict of competence. The Conference of Presidents may, at the specific request of a political group, revoke such authorisations within four parliamentary business weeks.
4. The Conference of Committee Chairs shall forward to the Conference of Presidents requests for authorisation to draw up legislative own-initiative and non-legislative own-initiative reports that have been assessed to be in compliance with the criteria and quota allocated. The Conference of Committee Chairs shall, at the same time, notify the Conference of Presidents of any annual activity and monitoring reports, as listed in Annexes 1 and 2, implementation reports and strategic reports that have been authorised.

#### Authorisation by the Conference of Presidents and resolution of conflicts of competence

5. The Conference of Presidents shall adopt a decision on requests for authorisation to draw up legislative own-initiative and non-legislative own-initiative reports within four parliamentary business weeks after they have been forwarded by the Conference of Committee Chairs, unless it decides, on exceptional grounds, to extend that deadline.
6. If a committee's competence to draw up a report is challenged, the Conference of Presidents shall take a decision within six parliamentary business weeks on the basis of a recommendation from the Conference of Committee Chairs or, if no such recommendation



is forthcoming, its chair. If the Conference of Presidents fails to take a decision within that period, the recommendation shall be deemed to have been approved.

*Article 4*

*Application of Rule 54 of the Rules of Procedure - procedure with associated committees*

1. Requests for the application of Rule 54 of the Rules of Procedure shall be submitted no later than the Monday preceding the meeting of the Conference of Committee Chairs at which requests for authorisation to draw up own-initiative reports are to be dealt with.
2. The Conference of Committee Chairs shall deal with requests for authorisation to draw up own-initiative reports and those for the application of Rule 54 at its monthly meeting.
3. If the committees concerned fail to reach agreement on the request for application of Rule 54, the Conference of Presidents shall take a decision within six parliamentary business weeks on the basis of a recommendation from the Conference of Committee Chairs or, if no such recommendation is forthcoming, its chair. If the Conference of Presidents fails to take a decision within that period, the recommendation shall be deemed to have been approved.

*Article 5*

*Final provisions*

1. Towards the end of the parliamentary term, requests for authorisation to draw up own-initiative reports must be submitted no later than in the July of the year preceding the elections. After that date, only duly substantiated exceptional requests shall be authorised.
2. The Conference of Committee Chairs shall submit to the Conference of Presidents a report on the progress of own-initiative reports every two and a half years.
3. This decision shall enter into force on 12 December 2002. It cancels and replaces the following decisions:
  - decision of the Conference of Presidents of 9 December 1999 on the procedure for granting authorisation to draw up own-initiative reports within the meaning of Rule 52 of the Rules of Procedure, and the decisions of the Conference of Presidents of 15 February and 17 May 2001 updating the annex to that decision;
  - decision of the Conference of Presidents of 15 June 2000 on the procedure for authorising the drawing-up of reports on documents forwarded to the European Parliament for information by other institutions or bodies of the European Union.

**Annual activity and monitoring reports subject to automatic authorisation and to the quota limiting the number of reports that may be drafted simultaneously (pursuant to Article 1(2) and Article 3 of the Decision)**

COMMITTEE	TITLE
Committee on Foreign Affairs	Council's [ <i>Ordinal number</i> ] annual report in accordance with operative provision 8 of the European Union Code of Conduct on Arms Exports
Committee on Development	Work of the ACP-EU Joint Parliamentary Assembly - annual report [ <i>year</i> ]
Committee on Budgets/Committee on Economic and Monetary Affairs - every 2nd year, with the association of the other respective committee under Rule 54	Financial activities of the European Investment Bank - annual report [ <i>year</i> ]
Committee on Budgetary Control	Control of the financial activities of the European Investment Bank - annual report [ <i>year</i> ]
Committee on Economic and Monetary Affairs	European Central Bank - annual report [ <i>year</i> ]
Committee on Economic and Monetary Affairs	Competition policy - annual report [ <i>year</i> ]
Committee on the Internal Market and Consumer Protection	Single market governance within the European Semester - annual report [ <i>year</i> ]
Committee on the Internal Market and Consumer Protection	Consumer protection - annual report [ <i>year</i> ]
Committee on the Internal Market and Consumer Protection	Services and goods in the single market - annual report [ <i>year</i> ]
Committee on Regional Development	[ <i>Ordinal number</i> ] report on economic and social cohesion
Committee on Legal Affairs	Monitoring the application of European Union law - [ <i>Ordinal number</i> ] annual report [ <i>year</i> ]
Committee on Legal Affairs	European Union regulatory fitness and subsidiarity and proportionality - [ <i>Ordinal number</i> ] report on Better Law Making covering the year [ <i>year</i> ]
Committee on Civil Liberties, Justice and Home Affairs	Situation of fundamental rights in the European Union - annual report [ <i>year</i> ]
Committee on Women's Rights and Gender Equality	Equality between women and men in the European Union - annual report [ <i>year</i> ]
Committee on Women's Rights and Gender Equality	Gender mainstreaming in the European Parliament - annual report [ <i>year</i> ]

**Annual activity and monitoring reports subject to automatic authorisation and with specific reference to the Rules of Procedure (not subject to the quota limiting the number of reports that may be drafted simultaneously)**

COMMITTEE	TITLE
Committee on Foreign Affairs	Candidate countries – annual progress report [ <i>year</i> ]
Committee on Foreign Affairs	Implementation of the common foreign and security policy – annual report [ <i>year</i> ]
Committee on Foreign Affairs (Subcommittee on Security and Defence)	Implementation of the common security and defence policy – annual report [ <i>year</i> ]
Committee on Foreign Affairs (Subcommittee on Human Rights)	Human rights and democracy in the world and the European Union's policy on the matter – annual report [ <i>year</i> ]
Committee on International Trade	Implementation of the common commercial policy – annual report [ <i>year</i> ]
Committee on Budgetary Control	Protection of the European Union's financial interests – combating fraud – annual report [ <i>year</i> ]
Committee on Economic and Monetary Affairs	Banking Union – annual report [ <i>year</i> ]
Committee on Economic and Monetary Affairs	Tax report [ <i>year</i> ]
Committee on Industry, Research and Energy	State of the Energy Union – annual report [ <i>year</i> ]
Committee on Civil Liberties, Justice and Home Affairs	Public access to Parliament documents – annual report [ <i>year</i> ]
Committee on Constitutional Affairs	European political parties – report [ <i>year</i> ]
Committee on Petitions	Deliberations of the Committee on Petitions in [ <i>year</i> ]
Committee on Petitions	Activities of the European Ombudsman - annual report [ <i>year</i> ]

### **Implementation Reports**

1. Implementation reports shall have the purpose of informing Parliament about the implementation of a piece of Union legislation, or of another instrument referred to in Article 1(1)(e), so as to allow the plenary to draw conclusions and to make recommendations for concrete actions to be taken. As such, they are made up of two parts:
  - an explanatory statement, in which the rapporteur describes the facts and sets out his or her findings on the state of implementation,
  - a motion for resolution indicating the main conclusions and concrete recommendations for actions to be taken.

In accordance with Rule 52a(2), the explanatory statement is the responsibility of the rapporteur and is therefore not put to the vote. Where it appears that a consensus or large majority is lacking on the content or scope of the statement, the chair may consult the committee.

2. When planning an implementation report, the committee shall take due account of the availability of reliable facts regarding the state of implementation of the relevant legislation.
3. The committee shall organise the allocation of implementation reports in a way that is not detrimental to the allocation of other legislative and non-legislative reports.
4. An implementation report shall be voted in committee no later than 12 months after it has been notified at the Conference of Committee Chairs. This deadline can be extended by the coordinators upon a reasoned request by the rapporteur.
5. The rapporteur shall be assisted by an administrative project team, coordinated by a committee administrator. The rapporteur shall involve shadow rapporteurs at all stages of the report.
6. The rapporteur shall have at his or her disposal all necessary means in terms of expertise available, both inside and outside Parliament, and in particular:
  - he or she shall be entitled to request the organisation of at least one committee hearing and to propose the panel to the coordinators, who will take the final decision;
  - he or she shall receive analytical support from Parliament's relevant policy departments and the Ex-Post Impact Assessment Unit of Directorate-General for Parliamentary Research Services (in particular, European Implementation Assessments);
  - he or she shall be entitled to request the undertaking of any necessary fact-finding journeys in accordance with Rule 25(9);

- he or she shall receive an authorisation or mandate to make contact, on behalf of the committee, with national parliaments, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions, and with all other relevant bodies, in order to receive factual information;
- he or she shall be provided with a letter of credentials from the President authorising him or her to request the Commission to disclose all relevant information about the implementation of Union legislation or of other instruments referred to in Article 1(1)(e).

All these elements shall be defined and organised by the rapporteur into a "project" and submitted to the coordinators or committee for approval.

7. The rapporteur shall regularly inform the committee on the progress of his or her fact-finding activities.

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

**► B REGULATION (EU) No 211/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 16 February 2011**

**on the citizens' initiative**

(OJ L 65, 11.3.2011, p. 1)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Delegated Regulation (EU) No 268/2012 of 25 January 2012	L 89	1	27.3.2012
► <u>M2</u>	Council Regulation (EU) No 517/2013 of 13 May 2013	L 158	1	10.6.2013
► <u>M3</u>	Commission Delegated Regulation (EU) No 887/2013 of 11 July 2013	L 247	11	18.9.2013
► <u>M4</u>	Commission Delegated Regulation (EU) No 531/2014 of 12 March 2014	L 148	52	20.5.2014
► <u>M5</u>	Commission Delegated Regulation (EU) 2015/1070 of 31 March 2015	L 178	1	8.7.2015
► <u>M6</u>	Commission Delegated Regulation (EU) 2018/1239 of 9 July 2018	L 234	1	18.9.2018

Corrected by:

- C1 Corrigendum, OJ L 235, 8.8.2014, p. 19 (887/2013)



**REGULATION (EU) No 211/2011 OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL**

**of 16 February 2011**

**on the citizens' initiative**

*Article 1*

**Subject matter**

This Regulation establishes the procedures and conditions required for a citizens' initiative as provided for in Article 11 TEU and Article 24 TFEU.

*Article 2*

**Definitions**

For the purpose of this Regulation the following definitions shall apply:

1. 'citizens' initiative' means an initiative submitted to the Commission in accordance with this Regulation, inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties, which has received the support of at least one million eligible signatories coming from at least one quarter of all Member States;
2. 'signatories' means citizens of the Union who have supported a given citizens' initiative by completing a statement of support form for that initiative;
3. 'organisers' means natural persons forming a citizens' committee responsible for the preparation of a citizens' initiative and its submission to the Commission.

*Article 3*

**Requirements for organisers and for signatories**

1. The organisers shall be citizens of the Union and be of the age to be entitled to vote in elections to the European Parliament.
2. The organisers shall form a citizens' committee of at least seven persons who are residents of at least seven different Member States.

The organisers shall designate one representative and one substitute ('the contact persons'), who shall liaise between the citizens' committee and the institutions of the Union throughout the procedure and who shall be mandated to speak and act on behalf of the citizens' committee.

Organisers who are Members of the European Parliament shall not be counted for the purposes of reaching the minimum number required to form a citizens' committee.

For the purpose of registering a proposed citizens' initiative in accordance with Article 4, only the information concerning the seven members of the citizens' committee who are needed in order to comply with the requirements laid down in paragraph 1 of this Article and in this paragraph shall be considered by the Commission.

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3. The Commission may request the organisers to provide appropriate proof that the requirements laid down in paragraphs 1 and 2 are fulfilled.

4. In order to be eligible to support a proposed citizens' initiative, signatories shall be citizens of the Union and shall be of the age to be entitled to vote in elections to the European Parliament.

*Article 4***Registration of a proposed citizens' initiative**

1. Prior to initiating the collection of statements of support from signatories for a proposed citizens' initiative, the organisers shall be required to register it with the Commission, providing the information set out in Annex II, in particular on the subject matter and objectives of the proposed citizens' initiative.

That information shall be provided in one of the official languages of the Union, in an online register made available for that purpose by the Commission ('the register').

The organisers shall provide, for the register and where appropriate on their website, regularly updated information on the sources of support and funding for the proposed citizens' initiative.

After the registration is confirmed in accordance with paragraph 2, the organisers may provide the proposed citizens' initiative in other official languages of the Union for inclusion in the register. The translation of the proposed citizens' initiative into other official languages of the Union shall be the responsibility of the organisers.

The Commission shall establish a point of contact which provides information and assistance.

2. Within two months from the receipt of the information set out in Annex II, the Commission shall register a proposed citizens' initiative under a unique registration number and send a confirmation to the organisers, provided that the following conditions are fulfilled:

- (a) the citizens' committee has been formed and the contact persons have been designated in accordance with Article 3(2);
- (b) the proposed citizens' initiative does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties;
- (c) the proposed citizens' initiative is not manifestly abusive, frivolous or vexatious; and
- (d) the proposed citizens' initiative is not manifestly contrary to the values of the Union as set out in Article 2 TEU.

3. The Commission shall refuse the registration if the conditions laid down in paragraph 2 are not met.



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Where it refuses to register a proposed citizens' initiative, the Commission shall inform the organisers of the reasons for such refusal and of all possible judicial and extrajudicial remedies available to them.

4. A proposed citizens' initiative that has been registered shall be made public in the register. Without prejudice to their rights under Regulation (EC) No 45/2001, data subjects shall be entitled to request the removal of their personal data from the register after the expiry of a period of two years from the date of registration of a proposed citizens' initiative.

5. At any time before the submission of statements of support in accordance with Article 8, the organisers may withdraw a proposed citizens' initiative that has been registered. In that case, an indication to that effect shall be entered in the register.

*Article 5***Procedures and conditions for the collection of statements of support**

1. The organisers shall be responsible for the collection of the statements of support from signatories for a proposed citizens' initiative which has been registered in accordance with Article 4.

Only forms which comply with the models set out in Annex III and which are in one of the language versions included in the register for that proposed citizens' initiative may be used for the collection of statements of support. The organisers shall complete the forms as indicated in Annex III prior to initiating the collection of statements of support from signatories. The information given in the forms shall correspond to the information contained in the register.

2. The organisers may collect statements of support in paper form or electronically. Where statements of support are collected online, Article 6 shall apply.

For the purpose of this Regulation, statements of support which are electronically signed using an advanced electronic signature, within the meaning of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures <sup>(1)</sup>, shall be treated in the same way as statements of support in paper form.

3. Signatories shall be required to complete statement of support forms made available by the organisers. They shall indicate only the personal data that are required for the purposes of verification by the Member States, as set out in Annex III.

Signatories may only support a given proposed citizens' initiative once.

4. Member States shall forward to the Commission any changes to the information set out in Annex III. Taking into account those changes, the Commission may adopt, by means of delegated acts, in accordance with Article 17 and subject to the conditions of Articles 18 and 19, amendments to Annex III.

<sup>(1)</sup> OJ L 13, 19.1.2000, p. 12.

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5. All statements of support shall be collected after the date of registration of the proposed citizens' initiative and within a period not exceeding 12 months.

At the end of that period, the register shall indicate that the period has expired and, where appropriate, that the required number of statements of support was not collected.

*Article 6***Online collection systems**

1. Where statements of support are collected online, the data obtained through the online collection system shall be stored in the territory of a Member State.

The online collection system shall be certified in accordance with paragraph 3 in the Member State in which the data collected through the online collection system will be stored. The organisers may use one online collection system for the purpose of collecting statements of support in several or all Member States.

The models for the statement of support forms may be adapted for the purpose of the online collection.

2. The organisers shall ensure that the online collection system used for the collection of statements of support complies with paragraph 4.

Prior to initiating the collection of statements of support, the organisers shall request the competent authority of the relevant Member State to certify that the online collection system used for that purpose complies with paragraph 4.

The organisers may only start collecting statements of support through the online collection system once they have obtained the certificate referred to in paragraph 3. The organisers shall make a copy of that certificate publicly available on the website used for the online collection system.

By 1 January 2012, the Commission shall set up and thereafter shall maintain open-source software incorporating the relevant technical and security features necessary for compliance with the provisions of this Regulation regarding the online collection systems. The software shall be made available free of charge.

3. Where the online collection system complies with paragraph 4, the relevant competent authority shall within one month issue a certificate to that effect in accordance with the model set out in Annex IV.

Member States shall recognise the certificates issued by the competent authorities of other Member States.

4. Online collection systems shall have adequate security and technical features in place in order to ensure that:

(a) only natural persons may submit a statement of support form online;

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- (b) the data provided online are securely collected and stored, in order to ensure, inter alia, that they may not be modified or used for any purpose other than their indicated support of the given citizens' initiative and to protect personal data against accidental or unlawful destruction or accidental loss, alteration or unauthorised disclosure or access;
- (c) the system can generate statements of support in a form complying with the models set out in Annex III, in order to allow for the verification by the Member States in accordance with Article 8(2).

5. By 1 January 2012, the Commission shall adopt technical specifications for the implementation of paragraph 4, in accordance with the regulatory procedure referred to in Article 20(2).

*Article 7***Minimum number of signatories per Member State**

1. The signatories of a citizens' initiative shall come from at least one quarter of Member States.
2. In at least one quarter of Member States, signatories shall comprise at least the minimum number of citizens set out, at the time of registration of the proposed citizens' initiative, in Annex I. Those minimum numbers shall correspond to the number of the Members of the European Parliament elected in each Member State, multiplied by 750.
3. The Commission shall adopt, by means of delegated acts, in accordance with Article 17 and subject to the conditions of Articles 18 and 19, appropriate adjustments to Annex I in order to reflect any modification in the composition of the European Parliament.
4. Signatories shall be considered as coming from the Member State which is responsible for the verification of their statement of support in accordance with the second subparagraph of Article 8(1).

*Article 8***Verification and certification by Member States of statements of support**

1. After collecting the necessary statements of support from signatories in accordance with Articles 5 and 7, the organisers shall submit the statements of support, in paper or electronic form, to the relevant competent authorities referred to in Article 15 for verification and certification. For that purpose the organisers shall use the form set out in Annex V and shall separate those statements of support collected in paper form, those which were electronically signed using an advanced electronic signature and those collected through an online collection system.

The organisers shall submit statements of support to the relevant Member State as follows:

- (a) to the Member State of residence or of nationality of the signatory, as specified in point 1 of Part C of Annex III, or

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- (b) to the Member State that issued the personal identification number or the personal identification document indicated in the statement of support, as specified in point 2 of Part C of Annex III.

2. The competent authorities shall, within a period not exceeding three months from receipt of the request, verify the statements of support submitted on the basis of appropriate checks, in accordance with national law and practice, as appropriate. On that basis they shall deliver to the organisers a certificate in accordance with the model set out in Annex VI, certifying the number of valid statements of support for the Member State concerned.

For the purpose of the verification of statements of support, the authentication of signatures shall not be required.

- 3. The certificate provided for in paragraph 2 shall be issued free of charge.

*Article 9***Submission of a citizens' initiative to the Commission**

After obtaining the certificates provided for in Article 8(2), and provided that all relevant procedures and conditions set out in this Regulation have been complied with, the organisers may submit the citizens' initiative to the Commission, accompanied by information regarding any support and funding received for that initiative. That information shall be published in the register.

The amount of support and funding received from any source in excess of which information is to be provided shall be identical to that set out in Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding <sup>(1)</sup>.

For the purpose of this Article, the organisers shall make use of the form set out in Annex VII and shall submit the completed form together with copies, in paper or electronic form, of the certificates provided for in Article 8(2).

*Article 10***Procedure for the examination of a citizens' initiative by the Commission**

- 1. Where the Commission receives a citizens' initiative in accordance with Article 9 it shall:

- (a) publish the citizens' initiative without delay in the register;
- (b) receive the organisers at an appropriate level to allow them to explain in detail the matters raised by the citizens' initiative;
- (c) within three months, set out in a communication its legal and political conclusions on the citizens' initiative, the action it intends to take, if any, and its reasons for taking or not taking that action.

<sup>(1)</sup> OJ L 297, 15.11.2003, p. 1.

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2. The communication referred to in paragraph 1(c) shall be notified to the organisers as well as to the European Parliament and the Council and shall be made public.

*Article 11***Public hearing**

Where the conditions of Article 10(1)(a) and (b) are fulfilled, and within the deadline laid down in Article 10(1)(c), the organisers shall be given the opportunity to present the citizens' initiative at a public hearing. The Commission and the European Parliament shall ensure that this hearing is organised at the European Parliament, if appropriate together with such other institutions and bodies of the Union as may wish to participate, and that the Commission is represented at an appropriate level.

*Article 12***Protection of personal data**

1. In processing personal data pursuant to this Regulation, the organisers of a citizens' initiative and the competent authorities of the Member State shall comply with Directive 95/46/EC and the national provisions adopted pursuant thereto.

2. For the purposes of their respective processing of personal data, the organisers of a citizens' initiative and the competent authorities designated in accordance with Article 15(2) shall be considered as data controllers in accordance with Article 2(d) of Directive 95/46/EC.

3. The organisers shall ensure that personal data collected for a given citizen's initiative are not used for any purpose other than their indicated support for that initiative, and shall destroy all statements of support received for that initiative and any copies thereof at the latest one month after submitting that initiative to the Commission in accordance with Article 9 or 18 months after the date of registration of the proposed citizens' initiative, whichever is the earlier.

4. The competent authority shall use the personal data it receives for a given citizens' initiative only for the purpose of verifying the statements of support in accordance with Article 8(2), and shall destroy all statements of support and copies thereof at the latest one month after issuing the certificate referred to in that Article.

5. Statements of support for a given citizens' initiative and copies thereof may be retained beyond the time limits laid down in paragraphs 3 and 4 if necessary for the purpose of legal or administrative proceedings relating to a proposed citizen's initiative. The organisers and the competent authority shall destroy all statements of support and copies thereof at the latest one week after the date of conclusion of the said proceedings by a final decision.

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6. The organisers shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

*Article 13***Liability**

Organisers shall be liable for any damage they cause in the organisation of a citizens' initiative in accordance with applicable national law.

*Article 14***Penalties**

1. Member States shall ensure that organisers are subject to appropriate penalties for infringements of this Regulation and in particular for:

- (a) false declarations made by organisers;
- (b) the fraudulent use of data.

2. The penalties referred to in paragraph 1 shall be effective, proportionate and dissuasive.

*Article 15***Competent authorities within the Member States**

1. For the purpose of the implementation of Article 6(3), Member States shall designate competent authorities responsible for issuing the certificate provided for therein.

2. For the purpose of the implementation of Article 8(2), each Member State shall designate one competent authority responsible for coordinating the process of verification of statements of support and for delivering the certificates provided for therein.

3. Not later than 1 March 2012, Member States shall forward the names and addresses of the competent authorities to the Commission.

4. The Commission shall make the list of competent authorities publicly available.

*Article 16***Amendment of the Annexes**

The Commission may adopt, by means of delegated acts in accordance with Article 17 and subject to the conditions of Articles 18 and 19, amendments to the Annexes to this Regulation within the scope of the relevant provisions of this Regulation.

*Article 17***Exercise of the delegation**

1. The power to adopt the delegated acts referred to in Article 16 shall be conferred on the Commission for an indeterminate period of time.

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2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 18 and 19.

*Article 18***Revocation of the delegation**

1. The delegation of power referred to in Article 16 may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

*Article 19***Objections to delegated acts**

1. The European Parliament or the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by two months.
2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If either the European Parliament or the Council objects to a delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

**▼B***Article 20***Committee**

1. For the purpose of the implementation of Article 6(5), the Commission shall be assisted by a committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

*Article 21***Notification of national provisions**

Each Member State shall notify to the Commission the specific provisions it adopts in order to implement this Regulation.

The Commission shall inform the other Member States thereof.

*Article 22***Review**

By 1 April 2015, and every three years thereafter, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation.

*Article 23***Entry into force and application**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 April 2012.

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



▼ **M4***ANNEX I***MINIMUM NUMBER OF SIGNATORIES PER MEMBER STATE**

Belgium	15 750
Bulgaria	12 750
Czech Republic	15 750
Denmark	9 750
Germany	72 000
Estonia	4 500
Ireland	8 250
Greece	15 750
Spain	40 500
France	55 500
Croatia	8 250
Italy	54 750
Cyprus	4 500
Latvia	6 000
Lithuania	8 250
Luxembourg	4 500
Hungary	15 750
Malta	4 500
Netherlands	19 500
Austria	13 500
Poland	38 250
Portugal	15 750
Romania	24 000
Slovenia	6 000
Slovakia	9 750
Finland	9 750
Sweden	15 000
United Kingdom	54 750

▼ **M3***ANNEX II***REQUIRED INFORMATION FOR REGISTERING A PROPOSED CITIZENS' INITIATIVE**

1. The title of the proposed citizens' initiative, in no more than 100 characters;
2. The subject matter, in no more than 200 characters;
3. A description of the objectives of the proposed citizens' initiative on which the Commission is invited to act, in no more than 500 characters;
4. The provisions of the Treaties considered relevant by the organisers for the proposed action;
5. The full names, postal addresses, nationalities and dates of birth of the seven members of the citizens' committee, indicating specifically the representative and the substitute as well as their e-mail addresses and telephone numbers <sup>(1)</sup>;
6. Documents that prove the full names, postal addresses, nationalities and dates of birth of each of the seven members of the citizens' committee;
7. All sources of support and funding for the proposed citizens' initiative at the time of registration <sup>(1)</sup>.

Organisers may provide more detailed information on the subject, objectives and background to the proposed citizens' initiative in an annex. They may also, if they wish, submit a draft legal act.

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<sup>(1)</sup> Privacy statement: in accordance with Article 11 of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, data subjects are informed that these personal data are compiled by the Commission for the purpose of the procedure in respect of the proposed citizens' initiative. Only the full names of the organisers, the e-mail addresses of the contact persons and information relating to the sources of support and funding will be made available to the public in the Commission's online register. Data subjects are entitled to object to the publication of their personal data on compelling legitimate grounds relating to their particular situation, and to request the rectification of that data at any time and its removal from the Commission's online register after the expiry of a period of two years from the date of registration of the proposed citizens' initiative.

## ANNEX III

STATEMENT OF SUPPORT FORM — PART A <sup>(1)</sup>

(for Member States that do not require the provision of a personal identification number/personal identification document number)

Unless stated otherwise, all fields on this form are mandatory.

TO BE PRE-COMPLETED BY THE ORGANISERS:

1. All signatories on this form are

Please mark only one Member State per list.

residents in:			IE	UK
residents in or citizens of:	EE	NL	SK	FI
residents in or citizens of (citizens living abroad only if they have informed their national authorities about their place of residence):	BE	DK	DE	LU

2. European Commission registration number:  3. Date of registration: 4. Web address of this proposed citizens' initiative in the European Commission's register: 5. Title of this proposed citizens' initiative: 6. Subject matter: 7. Main objectives: 8. Names and email addresses of registered contact persons: 9. Names of the other registered organisers: 10. Website of this proposed citizens' initiative (if any): 

TO BE COMPLETED BY THE SIGNATORIES IN CAPITAL LETTERS:

'I hereby certify that the information that I have provided in this form is correct and that I have not already supported this proposed citizens' initiative.'

▼ **M5**

FULL FIRST NAMES	FAMILY NAMES <sup>(2)</sup>	RESIDENCE (street, number, postal code, city, country) <sup>(3)</sup>	DATE AND PLACE <sup>(4)</sup> OF BIRTH	NATIONALITY	DATE AND SIGNATURE <sup>(5)</sup>

<sup>(1)</sup> The form shall be printed on one sheet. Organisers may use a double-sided sheet.

<sup>(2)</sup> For the Netherlands and Slovakia, please also state the name at birth.

<sup>(3)</sup> For Finland, please only state the country of permanent residence.

<sup>(4)</sup> For Ireland, Finland and the United Kingdom, please only state the date of birth.

<sup>(5)</sup> Signature is not mandatory if the form is submitted electronically via an online collection system as referred to in Article 6 of Regulation (EU) No 211/2011.

►<sup>(1)</sup> Privacy statement: In accordance with the General Data Protection Regulation, your personal data provided on this form will only be used for the support of the initiative and made available to the competent national authorities for the purpose of verification and certification. You are entitled to request from the organisers of this initiative access to, rectification of, erasure and restriction of processing of your personal data.

Your data will be stored by the organisers for a maximum retention period of 18 months after the date of registration of the proposed citizens' initiative, or one month after submitting that initiative to the Commission, whichever is the earlier. It might be retained beyond these time limits in the case of administrative or legal proceedings, for a maximum of one week after the date of conclusion of these proceedings.

Without prejudice to any other administrative or judicial remedy, you have the right to lodge at any time a complaint with a data protection authority, in particular in the Member State of your habitual residence, place of work or place of the alleged infringement if you consider that your data is unlawfully processed.

The organisers of the citizens' initiative are the controllers in the meaning of the General Data Protection Regulation and they can be contacted using the details provided on this form.

The contact details of the data protection officer (if any) are available at the web address of this initiative in the European Commission's register, as provided on this form.

The contact details of the national authority which will receive and process your personal data and the contact details of the national data protection authorities can be consulted at: <http://ec.europa.eu/citizens-initiative/public/data-protection>. ◀

STATEMENT OF SUPPORT FORM — PART B <sup>(1)</sup>

(for Member States that require the provision of a personal identification number/personal identification document number)

Unless stated otherwise, all fields on this form are mandatory.

TO BE PRE-COMPLETED BY THE ORGANISERS:

1. All signatories on this form hold personal identification numbers/personal identification document numbers of: Please mark only one Member State per list.

BG	CZ	EL	ES	FR	HR	IT	CY	LV	LT	HU	MT	AT	PL	PT	RO	SI	SE
----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

See Part C for personal identification numbers/personal identification document numbers one of which must be provided.

2. European Commission registration number:  3. Date of registration:
4. Web address of this proposed citizens' initiative in the European Commission's register:
5. Title of this proposed citizens' initiative:
6. Subject matter:
7. Main objectives:
8. Names and email addresses of registered contact persons:
9. Names of the other registered organisers:
10. Website of this proposed citizens' initiative (if any):

TO BE COMPLETED BY THE SIGNATORIES IN CAPITAL LETTERS:

'I hereby certify that the information that I have provided in this form is correct and that I have not already supported this proposed citizens' initiative.'

▼ **M5**

FULL FIRST NAMES	FAMILY NAMES <sup>(2)</sup>	RESIDENCE (street, number, postal code, city, country) <sup>(3)</sup>	DATE AND PLACE OF BIRTH <sup>(4)</sup>	NATIONALITY	PERSONAL IDENTIFICATION NUMBER/PERSONAL IDENTIFICATION DOCUMENT TYPE AND NUMBER <sup>(5)</sup>	DATE AND SIGNATURE <sup>(6)</sup>

<sup>(1)</sup> The form shall be printed on one sheet. Organisers may use a double-sided sheet.

<sup>(2)</sup> For Bulgaria and Greece, please also state the father's name. For Greece, please also state the name at birth.

<sup>(3)</sup> Only for France, Croatia, Italy, Austria, Poland and Romania.

<sup>(4)</sup> For Greece, Spain, Malta, Portugal and Romania, please only state the date of birth. For France, Italy, Austria, Slovenia, please state both the date and place of birth. For the other Member States, do not state anything.

<sup>(5)</sup> For Italian identification documents, please also state the issuing authority.

<sup>(6)</sup> Signature is not mandatory if the form is submitted electronically via an online collection system as referred to in Article 6 of Regulation (EU) No 211/2011.

►<sup>(1)</sup> Privacy statement: In accordance with the General Data Protection Regulation, your personal data provided on this form will only be used for the support of the initiative and made available to the competent national authorities for the purpose of verification and certification. You are entitled to request from the organisers of this initiative access to, rectification of, erasure and restriction of processing of your personal data.

Your data will be stored by the organisers for a maximum retention period of 18 months after the date of registration of the proposed citizens' initiative, or one month after submitting that initiative to the Commission, whichever is the earlier. It might be retained beyond these time limits in the case of administrative or legal proceedings, for a maximum of one week after the date of conclusion of these proceedings.

Without prejudice to any other administrative or judicial remedy, you have the right to lodge at any time a complaint with a data protection authority, in particular in the Member State of your habitual residence, place of work or place of the alleged infringement if you consider that your data is unlawfully processed.

The organisers of the citizens' initiative are the controllers in the meaning of the General Data Protection Regulation and they can be contacted using the details provided on this form.

The contact details of the data protection officer (if any) are available at the web address of this initiative in the European Commission's register, as provided on this form.

The contact details of the national authority which will receive and process your personal data and the contact details of the national data protection authorities can be consulted at: <http://ec.europa.eu/citizens-initiative/public/data-protection>. ◀

## ▼ M5

## Part C

## 1. Requirements for the Member States that do not require the provision of a personal identification number/personal identification document number (statement of support form — Part A)

Member State	Signatories whose statement of support is to be submitted to the Member State concerned
Belgium	— residents in Belgium — Belgian nationals residing outside the country if they have informed their national authorities of their place of residence
Denmark	— residents in Denmark — Danish nationals residing outside the country if they have informed their national authorities of their place of residence
Germany	— residents in Germany — German nationals residing outside the country if they have informed their national authorities of their place of residence
Estonia	— residents in Estonia — Estonian nationals residing outside the country
Ireland	— residents in Ireland
Luxembourg	— residents in Luxembourg — Luxembourgish nationals residing outside the country if they have informed their national authorities of their place of residence
Netherlands	— residents in the Netherlands — Dutch nationals residing outside the country
Slovakia	— residents in Slovakia — Slovak nationals residing outside the country
Finland	— residents in Finland — Finnish nationals residing outside the country
United Kingdom	— residents in the United Kingdom

## 2. List of Member States that require the provision of one of the personal identification numbers/personal identification document numbers specified below and issued by the Member State concerned (statement of support form — Part B)

## BULGARIA

— Единен граждански номер (personal number)

## CZECH REPUBLIC

— Občanský průkaz (national identity card)

— Cestovní pas (passport)

## GREECE

— Δελτίο Αστυνομικής Ταυτότητας (identity card)

▼ **M5**

- Διαβατήριο (passport)
- Βεβαίωση Εγγραφής Πολιτών Ε.Ε./Εγγραφο πιστοποίησης μόνιμης διαμονής πολίτη Ε.Ε. (residence certificate/permanent residence certificate)

## SPAIN

- Documento Nacional de Identidad (identity card)
- Pasaporte (passport)
- Número de Identidad de Extranjero, de la tarjeta o certificado, correspondiente a la inscripción en el Registro Central de Extranjeros (foreigner's identification number (NIE), of the card or certificate, corresponding to the registration in the Foreigners' Central Registry)

## FRANCE

- Passeport (passport)
- Carte nationale d'identité (national identity card)

## CROATIA

- Osobni identifikacijski broj (personal identification number)

## ITALY

- Passaporto (passport), inclusa l'indicazione dell'autorità di rilascio (including issuing authority)
- Carta di identità (identity card), inclusa l'indicazione dell'autorità di rilascio (including issuing authority)

## CYPRUS

- Δελτίο Ταυτότητας (identity card of the national or resident)
- Διαβατήριο (passport)

## LATVIA

- Personas kods (personal identification number)

## LITHUANIA

- Asmens kodas (personal number)

## HUNGARY

- személyazonosító igazolvány (identity card)
- útlevél (passport)
- személyi azonosító szám (személyi szám) (personal identification number)

## MALTA

- Karta tal-Identità (identity card)
- Dokument ta' residenza (residence document)

## AUSTRIA

- Reisepass (passport)
- Personalausweis (identity card)

## POLAND

- Numer ewidencyjny PESEL (PESEL identification number)

## PORTUGAL

- Bilhete de identidade (identity card)
- Passaporte (passport)
- Cartão de Cidadão (citizen's card)



**▼ M5**

## ROMANIA

- carte de identitate (identity card)
- pașaport (passport)
- certificat de înregistrare (registration certificate)
- carte de rezidență permanentă pentru cetățenii UE (permanent residence card for EU citizens)
- Cod Numeric Personal (personal identification number)

## SLOVENIA

- Enotna matična številka občana (personal identification number)

## SWEDEN

- Personnummer (personal identification number)

*ANNEX IV*

**CERTIFICATE CONFIRMING THE CONFORMITY OF AN ONLINE  
COLLECTION SYSTEM WITH REGULATION (EU) No 211/2011 OF  
THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF  
16 FEBRUARY 2011 ON THE CITIZENS' INITIATIVE**

... (name of competent authority) of ... (name of Member State) hereby certifies that the online collection system ... (website address) used for the collection of statements of support for ... (title of proposed citizens' initiative) complies with the relevant provisions of Regulation (EU) No 211/2011.

Date, signature and official stamp of the competent authority:

▼ **M5***ANNEX V***FORM FOR THE SUBMISSION OF STATEMENTS OF SUPPORT TO THE MEMBER STATES' COMPETENT AUTHORITIES**

1. Full names, postal addresses and email addresses of the contact persons (representative and substitute of the citizens' committee):
2. Title of proposed citizens' initiative:
3. Commission registration number:
4. Date of registration:
5. Number of signatories coming from (name of Member State):
6. Total number of collected statements of support:
7. Number of Member States where the threshold has been reached:
8. Annexes:  
  
(Include all statements of support from signatories to be verified by the relevant Member State.  
  
If applicable, include the relevant certificate(s) of conformity of the online collection system with Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative.)
9. I hereby declare that the information provided in this form is correct and that the statements of support have been collected in accordance with Article 5 of Regulation (EU) No 211/2011.
10. Date and signature of one of the contact persons (representative/substitute <sup>(1)</sup>):

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<sup>(1)</sup> Delete as appropriate

*ANNEX VI***CERTIFICATE CONFIRMING THE NUMBER OF VALID  
STATEMENTS OF SUPPORT COLLECTED FOR ... (NAME OF  
MEMBER STATE)**

... (name of competent authority) of ... (name of Member State), having made the necessary verifications required by Article 8 of Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, hereby certifies that ... statements of support for the proposed citizens' initiative having the registration number ... are valid in accordance with the provisions of that Regulation.

Date, signature and official stamp of the competent authority:

## ▼M5

## ANNEX VII

**FORM FOR THE SUBMISSION OF A CITIZENS' INITIATIVE TO THE EUROPEAN COMMISSION**

1. Title of citizens' initiative:
2. Commission registration number:
3. Date of registration:
4. Number of valid statements of support received (must be at least one million):
5. Number of signatories certified by Member States:

	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	LU
Number of signatories																
	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK	TOTAL			
Number of signatories																

6. Full names, postal addresses and email addresses of the contact persons (representative and substitute of the citizens' committee) <sup>(1)</sup>.
7. Indicate all sources of support and funding received for the initiative, including the amount of financial support at the time of submission <sup>(1)</sup>:
8. I hereby declare that the information provided in this form is correct and that all relevant procedures and conditions set out in Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative have been complied with.

Date and signature of one of the contact persons (representative/substitute <sup>(2)</sup>):

9. Annexes:

(Include all certificates)

<sup>(1)</sup> Privacy statement: in accordance with Article 11 of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, data subjects are informed that these personal data are compiled by the Commission for the purpose of the procedure in respect of the citizens' initiative. Only the full names of the organisers, the email addresses of the contact persons and information relating to the sources of support and funding will be made available to the public on the Commission's online register. Data subjects are entitled to object to the publication of their personal data on compelling legitimate grounds relating to their particular situation, and to request the rectification of that data at any time and its removal from the Commission's online register after the expiry of a period of two years from the date of registration of the proposed citizens' initiative.

<sup>(2)</sup> Delete as appropriate

This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

► **B**

**DECISION OF THE EUROPEAN PARLIAMENT**

**of 9 March 1994**

**on the regulations and general conditions governing the performance of the Ombudsman's duties**

(94/262/ECSC, EC, Euratom)

(OJ L 113, 4.5.1994, p. 15)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Decision 2002/262/EC, ECSC, Euratom of the European Parliament of 14 March 2002	L 92	13	9.4.2002
► <b><u>M2</u></b>	Decision 2008/587/EC, Euratom of the European Parliament of 18 June 2008	L 189	25	17.7.2008

**▼B****DECISION OF THE EUROPEAN PARLIAMENT****of 9 March 1994****on the regulations and general conditions governing the  
performance of the Ombudsman's duties**

(94/262/ECSC, EC, Euratom)

THE EUROPEAN PARLIAMENT,

Having regard to the Treaties establishing the European Communities, and in particular Article 138e (4) of the Treaty establishing the European Community ►**M2** ————— ◀, Article 107d (4) of the Treaty establishing the European Atomic Energy Community,

Having regard to the opinion of the Commission,

Having regard to the Council's approval,

Whereas the regulations and general conditions governing the performance of the Ombudsman's duties should be laid down, in compliance with the provisions of the Treaties establishing the European Communities;

Whereas the conditions under which a complaint may be referred to the Ombudsman should be established as well as the relationship between the performance of the duties of Ombudsman and legal or administrative proceedings;

**▼M2**

Whereas the Ombudsman, who may also act on his own initiative, must have access to all the elements required for the performance of his duties; whereas to that end Community institutions and bodies are obliged to supply the Ombudsman, at his request, with any information which he requests of them and without prejudice to the Ombudsman's obligation not to divulge such information; whereas access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001 <sup>(1)</sup>, should be subject to compliance with the rules on security of the Community institution or body concerned; whereas the institutions or bodies supplying classified information or documents as mentioned in the first subparagraph of Article 3(2) should inform the Ombudsman of such classification; whereas for the implementation of the rules provided for in the first subparagraph of Article 3(2), the Ombudsman should have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents and other information covered by the obligation of professional secrecy; whereas if the Ombudsman finds that the assistance requested is not forthcoming, he shall inform the European Parliament, which shall make appropriate representations;

**▼B**

Whereas it is necessary to lay down the procedures to be followed where the Ombudsman's enquiries reveal cases of maladministration; whereas provision should also be made for the submission of a comprehensive report by the Ombudsman to the European Parliament at the end of each annual session;

Whereas the Ombudsman and his staff are obliged to treat in confidence any information which they have acquired in the course of their duties; whereas the Ombudsman is, however, obliged to inform the competent authorities of facts which he considers might relate to criminal law and which have come to this attention in the course of his enquiries;

<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

**▼B**

Whereas provision should be made for the possibility of cooperation between the Ombudsman and authorities of the same type in certain Member States, in compliance with the national laws applicable;

Whereas it is for the European Parliament to appoint the Ombudsman at the beginning of its mandate and for the duration thereof, choosing him from among persons who are Union citizens and offer every requisite guarantee of independence and competence;

Whereas conditions should be laid down for the cessation of the Ombudsman's duties;

Whereas the Ombudsman must perform his duties with complete independence and give a solemn undertaking before the Court of Justice of the European Communities that he will do so when taking up his duties; whereas activities incompatible with the duties of Ombudsman should be laid down as should the remuneration, privileges and immunities of the Ombudsman;

Whereas provisions should be laid down regarding the officials and servants of the Ombudsman's secretariat which will assist him and the budget thereof; whereas the seat of the Ombudsman should be that of the European Parliament;

Whereas it is for the Ombudsman to adopt the implementing provisions for this Decision; whereas furthermore certain transitional provisions should be laid down for the first Ombudsman to be appointed after the entry into force of the Treaty on European Union,

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The regulations and general conditions governing the performance of the Ombudsman's duties shall be as laid down by this Decision in accordance with Article 138e (4) of the Treaty establishing the European Community ►**M2** ◀ and Article 107d (4) of the Treaty establishing the European Atomic Energy Community.
2. The Ombudsman shall perform his duties in accordance with the powers conferred on the Community institutions and bodies by the Treaties.
3. The Ombudsman may not intervene in cases before courts or question the soundness of a court's ruling.

*Article 2*

1. Within the framework of the aforementioned Treaties and the conditions laid down therein, the Ombudsman shall help to uncover maladministration in the activities of the Community institutions and bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role, and make recommendations with a view to putting an end to it. No action by any other authority or person may be the subject of a complaint to the Ombudsman.
2. Any citizen of the Union or any natural or legal person residing or having its registered office in a Member State of the Union may, directly or through a Member of the European Parliament, refer a complaint to the Ombudsman in respect of an instance of maladministration in the activities of Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role. The Ombudsman shall inform the institution or body concerned as soon as a complaint is referred to him.
3. The complaint must allow the person lodging the complaint and the object of the complaint to be identified; the person lodging the complaint may request that his complaint remain confidential.



**▼B**

4. A complaint shall be made within two years of the date on which the facts on which it is based came to the attention of the person lodging the complaint and must be preceded by the appropriate administrative approaches to the institutions and bodies concerned.
5. The Ombudsman may advise the person lodging the complaint to address it to another authority.
6. Complaints submitted to the Ombudsman shall not affect time limits for appeals in administrative or judicial proceedings.
7. When the Ombudsman, because of legal proceedings in progress or concluded concerning the facts which have been put forward, has to declare a complaint inadmissible or terminate consideration of it, the outcome of any enquiries he has carried out up to that point shall be filed without further action.
8. No complaint may be made to the Ombudsman that concerns work relationships between the Community institutions and bodies and their officials and other servants unless all the possibilities for the submission of internal administrative requests and complaints, in particular the procedures referred to in Article 90 (1) and (2) of the Staff Regulations, have been exhausted by the person concerned and the time limits for replies by the authority thus petitioned have expired.
9. The Ombudsman shall as soon as possible inform the person lodging the complaint of the action he has taken on it.

*Article 3*

1. The Ombudsman shall, on his own initiative or following a complaint, conduct all the enquiries which he considers justified to clarify any suspected maladministration in the activities of Community institutions and bodies. He shall inform the institution or body concerned of such action, which may submit any useful comment to him.

**▼M2**

2. The Community institutions and bodies shall be obliged to supply the Ombudsman with any information he has requested from them and give him access to the files concerned. Access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, shall be subject to compliance with the rules on security of the Community institution or body concerned.

The institutions or bodies supplying classified information or documents as mentioned in the previous subparagraph shall inform the Ombudsman of such classification.

For the implementation of the rules provided for in the first subparagraph, the Ombudsman shall have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents and other information covered by the obligation of professional secrecy.

The institutions or bodies concerned shall give access to documents originating in a Member State and classed as secret by law or regulation only where that Member State has given its prior agreement.

They shall give access to other documents originating in a Member State after having informed the Member State concerned.

In both cases, in accordance with Article 4, the Ombudsman may not divulge the content of such documents.

Officials and other servants of Community institutions and bodies must testify at the request of the Ombudsman; they shall continue to be bound by the relevant rules of the Staff Regulations, notably their duty of professional secrecy.

**▼B**

3. The Member States' authorities shall be obliged to provide the Ombudsman, whenever he may so request, via the Permanent Representations of the Member States to the European Communities, with any information that may help to clarify instances of maladministration by Community institutions or bodies unless such information is covered by laws or regulations on secrecy or by provisions preventing its being communicated. Nonetheless, in the latter case, the Member State concerned may allow the Ombudsman to have this information provided that he undertakes not to divulge it.

4. If the assistance which he requests is not forthcoming, the Ombudsman shall inform the European Parliament, which shall make appropriate representations.

5. As far as possible, the Ombudsman shall seek a solution with the institution or body concerned to eliminate the instance of maladministration and satisfy the complaint.

6. If the Ombudsman finds there has been maladministration, he shall inform the institution or body concerned, where appropriate making draft recommendations. The institution or body so informed shall send the Ombudsman a detailed opinion within three months.

7. The Ombudsman shall then send a report to the European Parliament and to the institution or body concerned. He may make recommendations in his report. The person lodging the complaint shall be informed by the Ombudsman of the outcome of the inquiries, of the opinion expressed by the institution or body concerned and of any recommendations made by the Ombudsman.

8. At the end of each annual session the Ombudsman shall submit to the European Parliament a report on the outcome of his inquiries.

**▼M2***Article 4*

1. The Ombudsman and his staff, to whom Article 287 of the Treaty establishing the European Community and Article 194 of the Treaty establishing the European Atomic Energy Community shall apply, shall be required not to divulge information or documents which they obtain in the course of their inquiries. They shall, in particular, be required not to divulge any classified information or any document supplied to the Ombudsman, in particular sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, or documents falling within the scope of Community legislation regarding the protection of personal data, as well as any information which could harm the person lodging the complaint or any other person involved, without prejudice to paragraph 2.

2. If, in the course of inquiries, he learns of facts which he considers might relate to criminal law, the Ombudsman shall immediately notify the competent national authorities via the Permanent Representations of the Member States to the European Communities and, insofar as the case falls within its powers, the competent Community institution, body or service in charge of combating fraud; if appropriate, the Ombudsman shall also notify the Community institution or body with authority over the official or servant concerned, which may apply the second paragraph of Article 18 of the Protocol on the Privileges and Immunities of the European Communities. The Ombudsman may also inform the Community institution or body concerned of the facts calling into question the conduct of a member of their staff from a disciplinary point of view.

*Article 4a*

The Ombudsman and his staff shall deal with requests for public access to documents, other than those referred to in Article 4(1), in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001.

**▼M2***Article 5*

1. Insofar as it may help to make his enquiries more efficient and better safeguard the rights and interests of persons who make complaints to him, the Ombudsman may cooperate with authorities of the same type in certain Member States provided he complies with the national law applicable. The Ombudsman may not by this means demand to see documents to which he would not have access under Article 3.
2. Within the scope of his functions as laid down in Article 195 of the Treaty establishing the European Community and Article 107d of the Treaty establishing the European Atomic Energy Community and avoiding any duplication with the activities of the other institutions or bodies, the Ombudsman may, under the same conditions, cooperate with institutions and bodies of Member States in charge of the promotion and protection of fundamental rights.

**▼B***Article 6*

1. The Ombudsman shall be appointed by the European Parliament after each election to the European Parliament for the duration of the parliamentary term. He shall be eligible for reappointment.
2. The Ombudsman shall be chosen from among persons who are Union citizens, have full civil and political rights, offer every guarantee of independence, and meet the conditions required for the exercise of the highest judicial office in their country or have the acknowledgement competence and experience to undertake the duties of Ombudsman.

*Article 7*

1. The Ombudsman shall cease to exercise his duties either at the end of this term of office or on his resignation or dismissal.
2. Save in the event of his dismissal, the Ombudsman shall remain in office until his successor has been appointed.
3. In the event of early cessation of duties, a successor shall be appointed within three months of the office's falling vacant for the remainder of the parliamentary term.

*Article 8*

An Ombudsman who no longer fulfils the conditions required for the performance of his duties or is guilty of serious misconduct may be dismissed by the Court of Justice of the European Communities at the request of the European Parliament.

*Article 9*

1. The Ombudsman shall perform his duties with complete independence, in the general interest of the Communities and of the citizens of the Union. In the performance of his duties he shall neither seek nor accept instructions from any government or other body. He shall refrain from any act incompatible with the nature of his duties.
2. When taking up his duties, the Ombudsman shall give a solemn undertaking before the Court of Justice of the European Communities that he will perform his duties with complete independence and impartiality and that during and after his term of office he will respect the obligations arising therefrom, in particular his duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments or benefits.

**▼B***Article 10*

1. During his term of office, the Ombudsman may not engage in any other political or administrative duties, or any other occupation, whether gainful or not.
2. The Ombudsman shall have the same rank in terms of remuneration, allowances and pension as a judge at the Court of Justice of the European Communities.
3. Articles 12 to 15 and Article 18 of the Protocol on the Privileges and Immunities of the European Communities shall apply to the Ombudsman and to the officials and servants of his secretariat.

*Article 11*

1. The Ombudsman shall be assisted by a secretariat, the principal officer of which he shall appoint.
2. The officials and servants of the Ombudsman's secretariat shall be subject to the rules and regulations applicable to officials and other servants of the European Communities. Their number shall be adopted each year as part of the budgetary procedure <sup>(1)</sup>.
3. Servants of the European Communities and of the Member States appointed to the Ombudsman's secretariat shall be seconded in the interests of the service and guaranteed automatic reinstatement in their institution of origin.
4. In matters concerning his staff, the Ombudsman shall have the same status as the institutions within the meaning of Article 1 of the Staff Regulations of Officials of the European Communities.

**▼M1****▼B***Article 13*

The seat of the Ombudsman shall be that of the European Parliament <sup>(2)</sup>.

*Article 14*

The Ombudsman shall adopt the implementing provisions for this Decision.

*Article 15*

The first Ombudsman to be appointed after the entry into force of the Treaty on European Union shall be appointed for the remainder of the parliamentary term.

**▼M1****▼B***Article 17*

This Decision shall be published in the *Official Journal of the European Communities*. It shall enter into force on the date of its publication.

<sup>(1)</sup> A joint statement by the three institutions will set out guiding principles for the number of staff employed by the Ombudsman and the status as temporary or contract staff of those carrying out enquiries.

<sup>(2)</sup> See Decision taken by common agreement between the Representatives of the Governments of the Member States on the location of the seats of the institutions and of certain bodies and departments of the European Communities (OJ No C 341, 23.12.1992, p. 1).

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B** REGULATION (EU, EURATOM) No 1141/2014 OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL

of 22 October 2014

on the statute and funding of European political parties and European political foundations

(OJ L 317, 4.11.2014, p. 1)

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► <b><u>M1</u></b>	Regulation (EU, Euratom) 2018/673 of the European Parliament and of the Council of 3 May 2018	L 114I	1 4.5.2018



**REGULATION (EU, EURATOM) No 1141/2014 OF THE  
EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 22 October 2014**

**on the statute and funding of European political parties and  
European political foundations**

**CHAPTER I**

**GENERAL PROVISIONS**

*Article 1*

**Subject matter**

This Regulation lays down the conditions governing the statute and funding of political parties at European level ('European political parties') and political foundations at European level ('European political foundations').

*Article 2*

**Definitions**

For the purposes of this Regulation:

- (1) 'political party' means an association of citizens:
  - which pursues political objectives, and
  - which is either recognised by, or established in accordance with, the legal order of at least one Member State;
- (2) 'political alliance' means structured cooperation between political parties and/or citizens;
- (3) 'European political party' means a political alliance which pursues political objectives and is registered with the Authority for European political parties and foundations established in Article 6, in accordance with the conditions and procedures laid down in this Regulation;
- (4) 'European political foundation' means an entity which is formally affiliated with a European political party, which is registered with the Authority in accordance with the conditions and procedures laid down in this Regulation, and which through its activities, within the aims and fundamental values pursued by the Union, underpins and complements the objectives of the European political party by performing one or more of the following tasks:
  - (a) observing, analysing and contributing to the debate on European public policy issues and on the process of European integration;
  - (b) developing activities linked to European public policy issues, such as organising and supporting seminars, training, conferences and studies on such issues between relevant stakeholders, including youth organisations and other representatives of civil society;

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- (c) developing cooperation in order to promote democracy, including in third countries;
- (d) serving as a framework for national political foundations, academics, and other relevant actors to work together at European level;
- (5) 'regional parliament' or 'regional assembly' means a body whose members either hold a regional electoral mandate or are politically accountable to an elected assembly;
- (6) 'funding from the general budget of the European Union' means a grant awarded in accordance with Title VI of Part One or a contribution awarded in accordance with Title VIII of Part Two of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(1)</sup> ('the Financial Regulation');
- (7) 'donation' means any cash offering, any offering in kind, the provision below market value of any goods, services (including loans) or works, and/or any other transaction which constitutes an economic advantage for the European political party or the European political foundation concerned, with the exception of contributions from members and of usual political activities carried out on a voluntary basis by individuals;
- (8) 'contribution from members' means any payment in cash, including membership fees, or any contribution in kind, or the provision below market value of any goods, services (including loans) or works, and/or any other transaction which constitutes an economic advantage for the European political party or the European political foundation concerned, when provided to that European political party or to that European political foundation by one of its members, with the exception of usual political activities carried out on a voluntary basis by individual members;
- (9) 'annual budget' for the purposes of Articles 20 and 27 means the total amount of expenditure in a given year as reported in the annual financial statements of the European political party or of the European political foundation concerned;

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- (10) 'National Contact Point' means any person or persons specifically designated by the relevant authorities in the Member States for the purpose of exchanging information in the application of this Regulation;

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- (11) 'seat' means the location where the European political party or the European political foundation has its central administration;
- (12) 'concurrent infringements' means two or more infringements committed as part of the same unlawful act;

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

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- (13) 'repeated infringement' means an infringement committed within five years of a sanction having been imposed on its perpetrator for the same type of infringement.

## CHAPTER II

STATUTE FOR EUROPEAN POLITICAL PARTIES AND EUROPEAN  
POLITICAL FOUNDATIONS*Article 3***Conditions for registration**

1. A political alliance shall be entitled to apply to register as a European political party subject to the following conditions:

- (a) it must have its seat in a Member State as indicated in its statutes;
- (b) ►**M1** its member parties must be represented by, in at least one quarter of the Member States, members of the European Parliament, of national parliaments, of regional parliaments or of regional assemblies, or ◀

it or its member parties must have received, in at least one quarter of the Member States, at least three per cent of the votes cast in each of those Member States at the most recent elections to the European Parliament;

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- (ba) its member parties are not members of another European political party;

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- (c) it must observe, in particular in its programme and in its activities, the values on which the Union is founded, as expressed in Article 2 TEU, namely respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities;
- (d) it or its members must have participated in elections to the European Parliament, or have expressed publicly the intention to participate in the next elections to the European Parliament; and
- (e) it must not pursue profit goals.

2. An applicant shall be entitled to apply to register as a European political foundation subject to the following conditions:

- (a) it must be affiliated with a European political party registered in accordance with the conditions and procedures laid down in this Regulation;
- (b) it must have its seat in a Member State as indicated in its statutes;



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- (c) it must observe, in particular in its programme and in its activities, the values on which the Union is founded, as expressed in Article 2 TEU, namely respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities;
- (d) its objectives must complement the objectives of the European political party with which it is formally affiliated;
- (e) its governing body must be composed of members from at least one quarter of the Member States; and
- (f) it must not pursue profit goals.

3. A European political party can have only one formally affiliated European political foundation. Each European political party and the affiliated European political foundation shall ensure a separation between their respective day-to-day management, governing structures and financial accounts.

*Article 4***Governance of European political parties**

1. The statutes of a European political party shall comply with the applicable law of the Member State in which it has its seat and shall include provisions covering at least the following:

- (a) its name and logo, which must be clearly distinguishable from those of any existing European political party or European political foundation;
- (b) the address of its seat;
- (c) a political programme setting out its purpose and objectives;
- (d) a statement, in conformity with point (e) of Article 3(1), that it does not pursue profit goals;
- (e) where relevant, the name of its affiliated political foundation and a description of the formal relationship between them;
- (f) its administrative and financial organisation and procedures, specifying in particular the bodies and offices holding the powers of administrative, financial and legal representation and the rules on the establishment, approval and verification of annual accounts; and
- (g) the internal procedure to be followed in the event of its voluntary dissolution as a European political party.

2. The statutes of a European political party shall include provisions on internal party organisation covering at least the following:

- (a) the modalities for the admission, resignation and exclusion of its members, the list of its member parties being annexed to the statutes;

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- (b) the rights and duties associated with all types of membership and the relevant voting rights;
- (c) the powers, responsibilities and composition of its governing bodies, specifying for each the criteria for the selection of candidates and the modalities for their appointment and dismissal;
- (d) its internal decision-making processes, in particular the voting procedures and quorum requirements;
- (e) its approach to transparency, in particular in relation to book-keeping, accounts and donations, privacy and the protection of personal data; and
- (f) the internal procedure for amending its statutes.

3. The Member State of the seat may impose additional requirements for the statutes, provided those additional requirements are not inconsistent with this Regulation.

*Article 5***Governance of European political foundations**

1. The statutes of a European political foundation shall comply with the applicable law of the Member State in which it has its seat and shall include provisions covering at least the following:

- (a) its name and logo, which must be clearly distinguishable from those of any existing European political party or European political foundation;
- (b) the address of its seat;
- (c) a description of its purpose and objectives, which must be compatible with the tasks listed in point (4) of Article 2;
- (d) a statement, in conformity with point (f) of Article 3(2), that it does not pursue profit goals;
- (e) the name of the European political party with which it is directly affiliated, and a description of the formal relationship between them;
- (f) a list of its bodies, specifying for each its powers, responsibilities and composition, and including the modalities for the appointment and dismissal of the members and managers of such bodies;
- (g) its administrative and financial organisation and procedures, specifying in particular the bodies and offices holding the powers of administrative, financial and legal representation and the rules on the establishment, approval and verification of annual accounts;
- (h) the internal procedure for amending its statutes; and

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- (i) the internal procedure to be followed in the event of its voluntary dissolution as a European political foundation.

2. The Member State of the seat may impose additional requirements for the statutes, provided those additional requirements are not inconsistent with this Regulation.

*Article 6***Authority for European political parties and European political foundations**

1. An Authority for European political parties and European political foundations (the 'Authority') is hereby established for the purpose of registering, controlling and imposing sanctions on European political parties and European political foundations in accordance with this Regulation.

2. The Authority shall have legal personality. It shall be independent and shall exercise its functions in full compliance with this Regulation.

The Authority shall decide on the registration and de-registration of European political parties and European political foundations in accordance with the procedures and conditions laid down in this Regulation. In addition, the Authority shall regularly verify that the registration conditions laid down in Article 3 and the governance provisions set out in accordance with points (a), (b) and (d) to (f) of Article 4(1) and in points (a) to (e) and (g) of Article 5(1) continue to be complied with by the registered European political parties and European political foundations.

In its decisions, the Authority shall give full consideration to the fundamental right of freedom of association and to the need to ensure pluralism of political parties in Europe.

The Authority shall be represented by its Director who shall take all decisions of the Authority on its behalf.

3. The Director of the Authority shall be appointed for a five-year non-renewable term by the European Parliament, the Council and the Commission (jointly referred to as the 'appointing authority') by common accord, on the basis of proposals made by a selection committee composed of the Secretaries-General of those institutions following an open call for candidates.

The Director of the Authority shall be selected on the basis of his or her personal and professional qualities. He or she shall not be a member of the European Parliament, hold any electoral mandate or be a current or former employee of a European political party or a European political foundation. The Director selected shall not have a conflict of interests between his or her duty as Director of the Authority and any other official duties, in particular in relation to the application of the provisions of this Regulation.

A vacancy caused by resignation, retirement, dismissal or death shall be filled in accordance with the same procedure.

In the event of a normal replacement or voluntary resignation the Director shall continue his or her functions until a replacement has taken up his or her duties.

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If the Director of the Authority no longer fulfils the conditions required for the performance of his or her duties, he or she may be dismissed by common accord by at least two of the three institutions referred to in the first subparagraph and on the basis of a report drawn up by the selection committee referred to in the first subparagraph on its own initiative or following a request from any of the three institutions.

The Director of the Authority shall be independent in the performance of his or her duties. When acting on behalf of the Authority, the Director shall neither seek nor take instructions from any institution or government or from any other body, office or agency. The Director of the Authority shall refrain from any act which is incompatible with the nature of his or her duties.

The European Parliament, the Council and the Commission shall exercise jointly, with regard to the Director, the powers conferred on the appointing authority by the Staff Regulations of Officials (and the Conditions of Employment of Other Servants of the Union) laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(1)</sup>. Without prejudice to decisions on appointment and dismissal, the three institutions may agree to entrust the exercise of some or all of the remaining powers conferred on the appointing authority to any one of them.

The appointing authority may assign the Director to other tasks provided that such tasks are not incompatible with the workload resulting from his or her duties as Director of the Authority and are not liable to create any conflict of interests or to jeopardise the full independence of the Director.

4. The Authority shall be physically located in the European Parliament, which shall provide the Authority with the necessary offices and administrative support facilities.

5. The Director of the Authority shall be assisted by staff from one or more institutions of the Union. When working for the Authority, such staff shall act under the sole authority of the Director of the Authority.

The selection of the staff shall not be liable to result in a conflict of interests between their duties at the Authority and any other official duties, and they shall refrain from any act which is incompatible with the nature of their duties.

6. The Authority shall conclude agreements with the European Parliament and, if appropriate, with other institutions on any administrative arrangements necessary to enable it to carry out its tasks, in particular agreements regarding the staff, services and support provided pursuant to paragraphs 4, 5 and 8.

7. The appropriations for the expenditure of the Authority shall be provided under a separate Title in the Section for the European Parliament in the general budget of the European Union. The appropriations shall be sufficient to ensure the full and independent operation of

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<sup>(1)</sup> Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

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the Authority. A draft budgetary plan for the Authority shall be submitted to the European Parliament by the Director, and shall be made public. The European Parliament shall delegate the duties of Authorising Officer with respect to those appropriations to the Director of the Authority.

8. Council Regulation No 1 <sup>(1)</sup> shall apply to the Authority.

The translation services required for the functioning of the Authority and the Register shall be provided by the Translation Centre for the Bodies of the European Union.

9. The Authority and the Authorising Officer of the European Parliament shall share all information necessary for the execution of their respective responsibilities under this Regulation.

10. The Director shall submit annually a report to the European Parliament, the Council and the Commission on the activities of the Authority.

11. The Court of Justice of the European Union shall review the legality of the decisions of the Authority in accordance with Article 263 TFEU and shall have jurisdiction in disputes relating to compensation for damage caused by the Authority in accordance with Articles 268 and 340 TFEU. Should the Authority fail to take a decision where it is required to do so by this Regulation, proceedings for failure to act may be brought before the Court of Justice of the European Union in accordance with Article 265 TFEU.

*Article 7***Register of European political parties and foundations**

1. The Authority shall establish and manage a Register of European political parties and European political foundations. Information from the Register shall be available online in accordance with Article 32.

2. In order to ensure the proper functioning of the Register, the Commission shall be empowered to adopt delegated acts in accordance with Article 36 and within the scope of the relevant provisions of this Regulation concerning:

- (a) the information and supporting documents held by the Authority for which the Register is to be the competent repository, which shall include the statutes of a European political party or European political foundation, any other documents submitted as part of an application for registration in accordance with Article 8(2), any documents received from the Member State of the seat as referred to in Article 15(2), and information on the identity of the persons who are members of bodies or hold offices that are vested with powers of administrative, financial and legal representation, as referred to in point (f) of Article 4(1) and point (g) of Article 5(1);

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<sup>(1)</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385/58).

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- (b) materials from the Register as referred to in point (a) of this paragraph for which the Register is to be competent to certify legality as established by the Authority pursuant to its competences under this Regulation. The Authority shall not be competent to verify compliance by a European political party or European political foundation with any obligation or requirement imposed on the party or foundation in question by the Member State of the seat pursuant to Articles 4, 5 and Article 14(2) which is additional to the obligations and requirements laid down by this Regulation.

3. The Commission shall by implementing acts specify the details of the registration number system to be applied for the Register and standard extracts from the Register to be made available to third parties upon request, including the content of letters and documents. Such extracts shall not include personal data other than the identity of the persons who are members of bodies or hold offices that are vested with powers of administrative, financial and legal representation, as referred to in point (f) of Article 4(1) and point (g) of Article 5(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37.

*Article 8***Application for registration**

1. An application for registration shall be filed with the Authority. An application for registration as a European political foundation shall be filed only through the European political party with which the applicant is formally affiliated.

2. The application shall be accompanied by:

- (a) documents proving that the applicant satisfies the conditions laid down in Article 3, including a standard formal declaration in the form set out in the Annex;
- (b) the statutes of the party or foundation, containing the provisions required by Articles 4 and 5, including the relevant annexes and, where applicable, the statement of the Member State of the seat referred to in Article 15(2).

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 36 and within the scope of the relevant provisions of this Regulation:

- (a) to identify any supplementary information or supporting document in relation to paragraph 2 necessary to allow the Authority to fully discharge its responsibilities under this Regulation in relation to the operation of the Register;
- (b) to amend the standard formal declaration in the Annex in respect of the particulars to be filled in by the applicant where necessary, in order to ensure that sufficient information is being held in relation to the signatory, his or her mandate and the European political party or European political foundation which he or she is mandated to represent for the purposes of the declaration.

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4. Documentation submitted to the Authority as part of the application shall be published immediately on the website referred to in Article 32.

*Article 9***Examination of the application and decision of the Authority**

1. The application shall be examined by the Authority in order to determine whether the applicant satisfies the conditions for registration laid down in Article 3 and whether the statutes contain the provisions required by Articles 4 and 5.

2. The Authority shall adopt a decision to register the applicant, unless it establishes that the applicant does not satisfy the conditions for registration laid down in Article 3 or that the statutes do not contain the provisions required by Articles 4 and 5.

The Authority shall publish its decision to register the applicant within one month following receipt of the application for registration or, where the procedures set out in Article 15(4) are applicable, within four months following receipt of the application for registration.

Where an application is incomplete, the Authority shall ask the applicant without delay to submit any additional information required. For the purposes of the deadline laid down in the second subparagraph, time shall only start to run from the date of receipt by the Authority of a complete application.

3. The standard formal declaration referred to in point (a) of Article 8(2) shall be considered sufficient for the Authority to ascertain that the applicant complies with the conditions specified in point (c) of Article 3(1) or point (c) of Article 3(2), whichever is applicable.

4. A decision of the Authority to register an applicant shall be published in the *Official Journal of the European Union*, together with the statutes of the party or foundation concerned. A decision not to register an applicant shall be published in the *Official Journal of the European Union*, together with the detailed grounds for rejection.

5. Any amendments to the documents or statutes submitted as part of the application for registration in accordance with Article 8(2) shall be notified to the Authority, which shall update the registration in accordance with the procedures set out in Article 15(2) and (4), *mutatis mutandis*.

6. The updated list of member parties of a European political party, annexed to the party statutes in accordance with Article 4(2), shall be sent to the Authority each year. Any changes following which the European political party might no longer satisfy the condition laid down in point (b) of Article 3(1) shall be communicated to the Authority within four weeks of any such change.

**▼B***Article 10***Verification of compliance with registration conditions and requirements**

1. Without prejudice to the procedure laid down in paragraph 3, the Authority shall regularly verify that the conditions for registration laid down in Article 3, and the governance provisions set out in points (a), (b) and (d) to (f) of Article 4(1) and points (a) to (e) and (g) of Article 5(1), continue to be complied with by registered European political parties and European political foundations.

2. If the Authority finds that any of the conditions for registration or governance provisions referred to in paragraph 1, with the exception of the conditions in point (c) of Article 3(1) and point (c) of Article 3(2), are no longer complied with, it shall notify the European political party or foundation concerned.

3. ►**M1** The European Parliament, acting on its own initiative or following a reasoned request from a group of citizens, submitted in accordance with the relevant provisions of its Rules of Procedure, or the Council or the Commission, may lodge with the Authority a request for verification of compliance by a specific European political party or European political foundation with the conditions laid down in point (c) of Article 3(1) and point (c) of Article 3(2). In such cases, and in the cases referred to in point (a) of Article 16(3), the Authority shall ask the committee of independent eminent persons established by Article 11 for an opinion on the subject. The committee shall give its opinion within two months. ◀

Where the Authority becomes aware of facts which may give rise to doubts concerning compliance by a specific European political party or European political foundation with the conditions laid down in point (c) of Article 3(1) and point (c) of Article 3(2), it shall inform the European Parliament, the Council and the Commission with a view to allowing any of them to lodge a request for verification as referred to in the first subparagraph. Without prejudice to the first subparagraph, the European Parliament, the Council and the Commission shall indicate their intention within two months of receiving that information.

The procedures laid down in the first and second subparagraphs shall not be initiated within a period of two months prior to elections to the European Parliament.

Having regard to the committee's opinion, the Authority shall decide whether to de-register the European political party or European political foundation concerned. The decision of the Authority shall be duly reasoned.

A decision of the Authority to de-register on grounds of non-compliance with the conditions set out in point (c) of Article 3(1) or point (c) of Article 3(2) may only be adopted in the event of manifest and serious breach of those conditions. It shall be subject to the procedure set out in paragraph 4.



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4. A decision of the Authority to de-register a European political party or foundation on the ground of a manifest and serious breach as regards compliance with the conditions set out in point (c) of Article 3(1) or point (c) of Article 3(2) shall be communicated to the European Parliament and the Council. The decision shall enter into force only if no objection is expressed by the European Parliament and the Council within a period of three months of the communication of the decision to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Authority that they will not object. In the event of an objection by the European Parliament and by the Council, the European political party or foundation shall remain registered.

The European Parliament and the Council may object to the decision only on grounds related to the assessment of compliance with the conditions for registration set out in point (c) of Article 3(1) and point (c) of Article 3(2).

The European political party or European political foundation concerned shall be informed that objections have been raised to the decision of the Authority to de-register it.

The European Parliament and the Council shall adopt a position in accordance with their respective decision-making rules as established in conformity with the Treaties. Any objection shall be duly reasoned and shall be made public.

5. A decision of the Authority to de-register a European political party or a European political foundation, to which no objections have been raised under the procedure laid down in paragraph 4, shall be published in the *Official Journal of the European Union*, together with the detailed grounds for de-registration, and shall enter into force three months following the date of such publication.

6. A European political foundation shall automatically forfeit its status as such if the European political party with which it is affiliated is removed from the Register.

*Article 11***Committee of independent eminent persons**

1. A committee of independent eminent persons is hereby established. It shall consist of six members, with the European Parliament, the Council and the Commission each appointing two members. The members of the committee shall be selected on the basis of their personal and professional qualities. They shall neither be members of the European Parliament, the Council or the Commission, nor hold any electoral mandate, be officials or other servants of the European Union or be current or former employees of a European political party or a European political foundation.

Members of the committee shall be independent in the performance of their duties. They shall neither seek nor take instructions from any institution or government or from any other body, office or agency, and shall refrain from any act which is incompatible with the nature of their duties.

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The committee shall be renewed within six months after the end of the first session of the European Parliament following each election to the European Parliament. The mandate of the members shall not be renewable.

2. The committee shall adopt its own rules of procedure. The chair of the committee shall be elected by its members from amongst their number in accordance with those rules. The secretariat and funding of the committee shall be provided by the European Parliament. The secretariat of the committee shall act under the sole authority of the committee.

3. When requested by the Authority, the committee shall give an opinion on any possible manifest and serious breach of the values on which the Union is founded, as referred to in point (c) of Article 3(1) and point (c) of Article 3(2), by a European political party or a European political foundation. To that end, the committee may request any relevant document and evidence from the Authority, the European Parliament, the European political party or European political foundation concerned, other political parties, political foundations or other stakeholders, and it may request to hear their representatives.

In its opinions, the committee shall give full consideration to the fundamental right of freedom of association and to the need to ensure pluralism of political parties in Europe.

The opinions of the committee shall be made public without delay.

**CHAPTER III****LEGAL STATUS OF EUROPEAN POLITICAL PARTIES AND  
EUROPEAN POLITICAL FOUNDATIONS***Article 12***Legal personality**

European political parties and European political foundations shall have European legal personality.

*Article 13***Legal recognition and capacity**

European political parties and European political foundations shall enjoy legal recognition and capacity in all Member States.

*Article 14***Applicable law**

1. European political parties and European political foundations shall be governed by this Regulation.

2. For matters not regulated by this Regulation or, where matters are only partly regulated by it, for those aspects which are not covered by it, European political parties and European political foundations shall be governed by the applicable provisions of national law in the Member State in which they have their respective seats.

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Activities carried out by European political parties and European political foundations in other Member States shall be governed by the relevant national laws of those Member States.

3. For matters not regulated by this Regulation or by the applicable provisions pursuant to paragraph 2 or, where matters are only partly regulated by them, for those aspects which are not covered by them, European political parties and European political foundations shall be governed by the provisions of their respective statutes.

*Article 15***Acquisition of European legal personality**

1. A European political party or a European political foundation shall acquire European legal personality on the date of publication in the *Official Journal of the European Union* of the decision of the Authority to register it, pursuant to Article 9.

2. If the Member State in which an applicant for registration as a European political party or a European political foundation has its seat so requires, the application submitted pursuant to Article 8 shall be accompanied by a statement issued by that Member State, certifying that the applicant has complied with all relevant national requirements for application, and that its statutes are in conformity with the applicable law referred to in the first subparagraph of Article 14(2).

3. Where the applicant enjoys legal personality under the law of a Member State, the acquisition of European legal personality shall be regarded by that Member State as a conversion of the national legal personality into a successor European legal personality. The latter shall fully maintain any pre-existing rights and obligations of the former national legal entity, which shall cease to exist as such. The Member States concerned shall not apply prohibitive conditions in the context of such conversion. The applicant shall maintain its seat in the Member State concerned until a decision in accordance with Article 9 has been published.

4. If the Member State in which the applicant has its seat so requires, the Authority shall fix the date of the publication referred to in paragraph 1 only after consultation with that Member State.

*Article 16***Termination of European legal personality**

1. A European political party or a European political foundation shall lose its European legal personality upon the entry into force of a decision of the Authority to remove it from the Register as published in the *Official Journal of the European Union*. The decision shall enter into force three months after such publication unless the European political party or the European political foundation concerned requests a shorter period.

2. A European political party or a European political foundation shall be removed from the Register by a decision of the Authority:

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- (a) as a consequence of a decision adopted pursuant to Article 10(2) to (5);
- (b) in the circumstances provided for in Article 10(6);
- (c) at the request of the European political party or European political foundation concerned; or
- (d) in the cases referred to in point (b) of the first subparagraph of paragraph 3 of this Article.

3. If a European political party or a European political foundation has seriously failed to fulfil relevant obligations under national law applicable by virtue of the first subparagraph of Article 14(2), the Member State of the seat may address to the Authority a duly reasoned request for de-registration which must identify precisely and exhaustively the illegal actions and the specific national requirements that have not been complied with. In such cases, the Authority shall:

- (a) for matters relating exclusively or predominantly to elements affecting respect for the values on which the Union is founded, as expressed in Article 2 TEU, initiate a verification procedure in accordance with Article 10(3). Article 10(4), (5) and (6) shall also apply;
- (b) for any other matter, and when the reasoned request of the Member State concerned confirms that all national remedies have been exhausted, decide to remove the European political party or European political foundation concerned from the Register.

If a European political party or a European political foundation has seriously failed to fulfil relevant obligations under national law applicable by virtue of the second subparagraph of Article 14(2), and if the matter relates exclusively or predominantly to elements affecting respect of the values on which the Union is founded, as expressed in Article 2 TEU, the Member State concerned may address a request to the Authority in accordance with the provisions of the first subparagraph of this paragraph. The Authority shall proceed in accordance with point (a) of the first subparagraph of this paragraph.

In all cases, the Authority shall act without undue delay. The Authority shall inform the Member State concerned and the European political party or European political foundation concerned of the follow-up given to the reasoned request for de-registration.

4. The Authority shall fix the date of the publication referred to in paragraph 1 after consultation with the Member State in which the European political party or European political foundation has its seat.

5. If the European political party or European political foundation concerned acquires legal personality under the law of the Member State of its seat, such acquisition shall be regarded by that Member State as a

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conversion of the European legal personality into a national legal personality that fully maintains the pre-existing rights and obligations of the former European legal entity. The Member State in question shall not apply prohibitive conditions in the context of such conversion.

6. If the European political party or European political foundation does not acquire legal personality under the law of the Member State of its seat, it shall be wound up in accordance with the applicable law of that Member State. The Member State concerned may require that such winding-up be preceded by the acquisition by the party or foundation concerned of national legal personality in accordance with paragraph 5.

7. In all situations referred to in paragraphs 5 and 6, the Member State concerned shall ensure that the not-for-profit condition laid down in Article 3 is fully respected. The Authority and the Authorising Officer of the European Parliament may agree with the Member State concerned the modalities for termination of the European legal personality, in particular in order to ensure the recovery of any funds received from the general budget of the European Union and the payment of any financial sanctions imposed in accordance with Article 27.

**CHAPTER IV****FUNDING PROVISIONS***Article 17***Funding conditions**

1. A European political party which is registered in accordance with the conditions and procedures laid down in this Regulation, which is represented in the European Parliament by at least one of its members, and which is not in one of the situations of exclusion referred to in Article 106(1) of the Financial Regulation may apply for funding from the general budget of the European Union, in accordance with the terms and conditions published by the Authorising Officer of the European Parliament in a call for contributions.

2. A European political foundation which is affiliated with a European political party eligible to apply for funding under paragraph 1, which is registered in accordance with the conditions and procedures laid down in this Regulation, and which is not in one of the situations of exclusion referred to in Article 106(1) of the Financial Regulation may apply for funding from the general budget of the European Union, in accordance with the terms and conditions published by the Authorising Officer of the European Parliament in a call for proposals.

3. For the purposes of determining eligibility for funding from the general budget of the European Union in accordance with paragraph 1 of this Article and point (b) of Article 3(1), and for the application of Article 19(1), a member of the European Parliament shall be considered as a member of only one European political party, which shall, where relevant, be the one to which his or her national or regional political party is affiliated on the final date for the submission of applications for funding.

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4. Financial contributions or grants from the general budget of the European Union shall not exceed 90 % of the annual reimbursable expenditure indicated in the budget of a European political party and 95 % of the eligible costs incurred by a European political foundation. European political parties may use any unused part of the Union contribution awarded to cover reimbursable expenditure within the financial year following its award. Amounts unused after that financial year shall be recovered in accordance with the Financial Regulation.

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5. Within the limits set out in Articles 21 and 22, the expenditure reimbursable through a financial contribution shall include administrative expenditure and expenditure linked to technical assistance, meetings, research, cross-border events, studies, information and publications, as well as expenditure linked to campaigns.

*Article 18***Application for funding**

1. In order to receive funding from the general budget of the European Union, a European political party or European political foundation which satisfies the conditions of Article 17(1) or (2) shall file an application with the European Parliament following a call for contributions or proposals.

2. The European political party and the European political foundation must, at the time of its application, comply with the obligations listed in Article 23, and, from the date of its application until the end of the financial year or of the action covered by the contribution or grant, remain registered in the Register and may not be the subject of any of the sanctions provided for in Article 27(1) and in points (a)(v) and (vi) of Article 27(2).

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2a. A European political party shall include in its application evidence demonstrating that its EU member parties have, as a rule, published on their websites, in a clearly visible and user-friendly manner, throughout the 12 months preceding the final date for submission of applications, the political programme and logo of the European political party.

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3. A European political foundation shall include in its application its annual work programme or action plan.

4. The Authorising Officer of the European Parliament shall adopt a decision within three months after closure of the call for contributions or call for proposals, and shall authorise and manage the corresponding appropriations in accordance with the Financial Regulation.

5. A European political foundation may apply for funding from the general budget of the European Union only through the European political party with which it is affiliated.

**▼B***Article 19***Award criteria and distribution of funding****▼M1**

1. The respective appropriations available to those European political parties and European political foundations which have been awarded contributions or grants in accordance with Article 18 shall be distributed annually on the basis of the following distribution key:

- 10 % shall be distributed among the beneficiary European political parties in equal shares,
- 90 % shall be distributed among the beneficiary European political parties in proportion to their share of elected members of the European Parliament.

The same distribution key shall be used to award funding to European political foundations, on the basis of their affiliation with a European political party.

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2. The distribution referred to in paragraph 1 shall be based on the number of elected members of the European Parliament who are members of the applicant European political party on the final date for the submission of applications for funding, taking into account Article 17(3).

After that date, any changes to the number shall not affect the respective share of funding between European political parties or European political foundations. This is without prejudice to the requirement in Article 17(1) for a European political party to be represented in the European Parliament by at least one of its members.

*Article 20***Donations and contributions**

1. European political parties and European political foundations may accept donations from natural or legal persons of up to a value of EUR 18 000 per year and per donor.

2. European political parties and European political foundations shall, at the time of the submission of their annual financial statements in accordance with Article 23, also transmit a list of all donors with their corresponding donations, indicating both the nature and the value of the individual donations. This paragraph shall also apply to contributions made by member parties of European political parties and member organisations of European political foundations.

For donations from natural persons the value of which exceeds EUR 1 500 and is below or equal to EUR 3 000, the European political party or European political foundation concerned shall indicate whether the corresponding donors have given their prior written consent to publication in accordance with point (e) of Article 32(1).

3. Donations received by European political parties and European political foundations within six months prior to elections to the European Parliament shall be reported on a weekly basis to the Authority in writing and in accordance with paragraph 2.

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4. Single donations the value of which exceeds EUR 12 000 that have been accepted by European political parties and European political foundations shall be immediately reported to the Authority in writing and in accordance with paragraph 2.

5. European political parties and European political foundations shall not accept any of the following:

- (a) anonymous donations or contributions;
- (b) donations from the budgets of political groups in the European Parliament;
- (c) donations from any public authority from a Member State or a third country, or from any undertaking over which such a public authority may exercise, directly or indirectly, a dominant influence by virtue of its ownership of it, its financial participation therein, or the rules which govern it; or
- (d) donations from any private entities based in a third country or from individuals from a third country who are not entitled to vote in elections to the European Parliament.

6. Any donation that is not permitted under this Regulation shall within 30 days following the date of its receipt by a European political party or a European political foundation:

- (a) be returned to the donor or to any person acting on the donor's behalf; or
- (b) where it is not possible to return it, be reported to the Authority and the European Parliament. The Authorising Officer of the European Parliament shall establish the amount receivable and authorise the recovery in accordance with the provisions laid down in Articles 78 and 79 of the Financial Regulation. The funds shall be entered as general revenue in the European Parliament section of the general budget of the European Union.

7. Contributions to a European political party from its members shall be permitted. The value of such contributions shall not exceed 40 % of the annual budget of that European political party.

8. Contributions to a European political foundation from its members, and from the European political party with which it is affiliated, shall be permitted. The value of such contributions shall not exceed 40 % of the annual budget of that European political foundation and may not derive from funds received by a European political party pursuant to this Regulation from the general budget of the European Union.

The burden of proof shall rest with the European political party concerned, which shall clearly indicate in its accounts the origin of funds used to finance its affiliated European political foundation.



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9. Without prejudice to paragraphs 7 and 8, European political parties and European political foundations may accept from citizens who are their members contributions up to a value of EUR 18 000 per year and per member, where such contributions are made by the member concerned on his or her own behalf.

The ceiling laid down in the first subparagraph shall not apply where the member concerned is also an elected member of the European Parliament, of a national parliament or of a regional parliament or regional assembly.

10. Any contribution that is not permitted under this Regulation shall be returned in accordance with paragraph 6.

*Article 21***Financing of campaigns in the context of elections to the European Parliament**

1. Subject to the second subparagraph, the funding of European political parties from the general budget of the European Union or from any other source may be used to finance campaigns conducted by the European political parties in the context of elections to the European Parliament in which they or their members participate as required by point (d) of Article 3(1).

In accordance with Article 8 of the Act concerning the election of the members of the European Parliament by direct universal suffrage <sup>(1)</sup>, the funding and possible limitation of election expenses for all political parties, candidates and third parties in, in addition to their participation in, elections to the European Parliament is governed in each Member State by national provisions.

2. Expenditure linked to the campaigns referred to in paragraph 1 shall be clearly identified as such by the European political parties in their annual financial statements.

*Article 22***Prohibition of funding**

1. Notwithstanding Article 21(1), the funding of European political parties from the general budget of the European Union or from any other source shall not be used for the direct or indirect funding of other political parties, and in particular national parties or candidates. Those national political parties and candidates shall continue to be governed by national rules.

2. The funding of European political foundations from the general budget of the European Union or from any other source shall not be used for any other purpose than for financing their tasks as listed in point (4) of Article 2 and to meet expenditure directly linked to the objectives set out in their statutes in accordance with Article 5. It shall in particular not be used for the direct or indirect funding of elections, political parties, or candidates or other foundations.

<sup>(1)</sup> OJ L 278, 8.10.1976, p. 5.

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3. The funding of European political parties and European political foundations from the general budget of the European Union or from any other source shall not be used to finance referendum campaigns.

## CHAPTER V

## CONTROL AND SANCTIONS

*Article 23***Accounts, reporting and audit obligations**

1. At the latest within six months following the end of the financial year, European political parties and European political foundations shall submit to the Authority, with a copy to the Authorising Officer of the European Parliament and to the competent National Contact Point of the Member State of their seat:

- (a) their annual financial statements and accompanying notes, covering their revenue and expenditure, assets and liabilities at the beginning and at the end of the financial year, in accordance with the law applicable in the Member State in which they have their seat and their annual financial statements on the basis of the international accounting standards defined in Article 2 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council <sup>(1)</sup>;
- (b) an external audit report on the annual financial statements, covering both the reliability of those financial statements and the legality and regularity of their revenue and expenditure, carried out by an independent body or expert; and
- (c) the list of donors and contributors and their corresponding donations or contributions reported in accordance with Article 20(2), (3) and (4).

2. Where expenditure is implemented by European political parties jointly with national political parties or by European political foundations jointly with national political foundations, or with other organisations, evidence of the expenditure incurred by the European political parties or by the European political foundations directly or through those third parties shall be included in the annual financial statements referred to in paragraph 1.

3. The independent external bodies or experts referred to in point (b) of paragraph 1 shall be selected, mandated and paid by the European Parliament. They shall be duly authorised to audit accounts under the law applicable in the Member State in which they have their seat or establishment.

4. European political parties and European political foundations shall provide any information requested by the independent bodies or experts for the purpose of their audit.

<sup>(1)</sup> Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

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5. The independent bodies or experts shall inform the Authority and the Authorising Officer of the European Parliament of any suspected illegal activity, fraud or corruption which may harm the financial interests of the Union. The Authority and the Authorising Officer of the European Parliament shall inform the National Contact Points concerned thereof.

*Article 24***General rules on control**

1. Control of compliance by European political parties and European political foundations with their obligations under this Regulation shall be exercised, in cooperation, by the Authority, by the Authorising Officer of the European Parliament and by the competent Member States.

2. The Authority shall control compliance by European political parties and European political foundations with their obligations under this Regulation, in particular in relation to Article 3, points (a), (b), and (d) to (f) of Article 4(1), points (a) to (e) and (g) of Article 5(1), Article 9(5) and (6), and Articles 20, 21 and 22.

The Authorising Officer of the European Parliament shall control compliance by European political parties and European political foundations with the obligations relating to Union funding under this Regulation in accordance with the Financial Regulation. In carrying out such controls, the European Parliament shall take the necessary measures in the fields of the prevention of and the fight against fraud affecting the financial interests of the Union.

3. The control by the Authority and by the Authorising Officer of the European Parliament referred to in paragraph 2 shall not extend to compliance by European political parties and European political foundations with their obligations under applicable national law as referred to in Article 14.

4. European political parties and European political foundations shall provide any information requested by the Authority, the Authorising Officer of the European Parliament, the Court of Auditors, the European Anti-Fraud Office (OLAF) or Member States which is necessary for the purpose of carrying out the controls for which they are responsible under this Regulation.

Upon request and for the purpose of controlling compliance with Article 20, European political parties and European political foundations shall provide the Authority with information concerning contributions made by individual members and the identity of such members. Moreover, where appropriate, the Authority may require European political parties to provide signed confirmatory statements from members holding elected mandates for the purpose of controlling compliance with the condition laid down in the first subparagraph of point (b) of Article 3(1).

*Article 25***Implementation and control in respect of Union funding**

1. Appropriations for the funding of European political parties and European political foundations shall be determined under the annual budgetary procedure and shall be implemented in accordance with this Regulation and the Financial Regulation.

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The terms and conditions for contributions and grants shall be laid down by the Authorising Officer of the European Parliament in the call for contributions and the call for proposals.

2. Control of funding received from the general budget of the European Union and its use shall be exercised in accordance with the Financial Regulation.

Control shall also be exercised on the basis of annual certification by an external and independent audit, as provided for in Article 23(1).

3. The Court of Auditors shall exercise its audit powers in accordance with Article 287 TFEU.

4. Any document or information required by the Court of Auditors in order to enable it to carry out its task shall be supplied to it at its request by the European political parties and the European political foundations that receive funding in accordance with this Regulation.

5. The contribution and grant decision or agreement shall expressly provide for auditing by the European Parliament and the Court of Auditors, on the basis of records and on the spot, of the European political party which has received a contribution or the European political foundation which has received a grant from the general budget of the European Union.

6. The Court of Auditors and the Authorising Officer of the European Parliament, or any other external body authorised by the Authorising Officer of the European Parliament, may carry out the necessary checks and verifications on the spot in order to verify the legality of expenditure and the proper implementation of the provisions of the contribution and grant decision or agreement, and, in the case of European political foundations, the proper implementation of the work programme or action. The European political party or European political foundation in question shall supply any document or information needed to carry out this task.

7. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(1)</sup> and Council Regulation (Euratom, EC) No 2185/96 <sup>(2)</sup>, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with contributions or grants under this Regulation. If appropriate, its findings may give rise to recovery decisions by the Authorising Officer of the European Parliament.

<sup>(1)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(2)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

**▼B***Article 26***Technical support**

All technical support provided by the European Parliament to European political parties shall be based on the principle of equal treatment. It shall be granted on conditions no less favourable than those granted to other external organisations and associations that may be accorded similar facilities and shall be supplied against invoice and payment.

*Article 27***Sanctions**

1. In accordance with Article 16, the Authority shall decide to remove a European political party or a European political foundation from the Register by way of sanction in any of the following situations:

- (a) where the party or foundation in question has been found by a judgment having the force of *res judicata* to have engaged in illegal activities detrimental to the financial interests of the Union as defined in Article 106(1) of the Financial Regulation;

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- (b) where it is established, in accordance with the procedures set out in Article 10(2) to (5), that it no longer fulfils one or more of the conditions set out in Article 3(1) or (2);
- (ba) where a decision to register the party or foundation in question is based on incorrect or misleading information for which the applicant is responsible, or where such a decision has been obtained by deceit; or

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- (c) where a request by a Member State for de-registration on grounds of serious failure to fulfil obligations under national law meets the requirements set out in point (b) of Article 16(3).

2. The Authority shall impose financial sanctions in the following situations:

- (a) non-quantifiable infringements:
  - (i) in the event of non-compliance with the requirements of Article 9(5) or (6);
  - (ii) in the event of non-compliance with the commitments entered into and the information provided by a European political party or European political foundation in accordance with points (a), (b) and (d) to (f) of Article 4(1) and with points (a), (b), (d) and (e) of Article 5(1);
  - (iii) in the event of failure to transmit the list of donors and their corresponding donations in accordance with Article 20(2) or to report donations in accordance with Article 20(3) and (4);

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- (iv) where a European political party or a European political foundation has infringed the obligations laid down in Article 23(1) or Article 24(4);
  - (v) where a European political party or a European political foundation has been found by a judgment having the force of res judicata to have engaged in illegal activities detrimental to the financial interests of the Union as defined in Article 106(1) of the Financial Regulation;
  - (vi) where the European political party or the European political foundation concerned has at any time intentionally omitted to provide information or has intentionally provided incorrect or misleading information, or where the bodies authorised by this Regulation to audit or conduct checks on the beneficiaries of funding from the general budget of the European Union detect inaccuracies in the annual financial statements which are regarded as constituting material omissions or misstatements of items in accordance with the international accounting standards defined in Article 2 of Regulation (EC) No 1606/2002;
- (b) quantifiable infringements:
- (i) where a European political party or a European political foundation has accepted donations and contributions that are not permitted under Article 20(1) or (5), unless the conditions laid down in Article 20(6) are met;
  - (ii) in the event of non-compliance with the requirements laid down in Articles 21 and 22.
3. The Authorising Officer of the European Parliament may exclude a European political party or a European political foundation from future Union funding for up to five years, or up to 10 years in cases of an infringement repeated within a five-year period, when it has been found guilty of any of the infringements listed in points (v) and (vi) of point (a) of paragraph 2. This is without prejudice to the powers of the Authorising Officer of the European Parliament as set out in Article 204n of the Financial Regulation.
4. For the purposes of paragraphs 2 and 3, the following financial sanctions shall be imposed on a European political party or a European political foundation:
- (a) in cases of non-quantifiable infringements, a fixed percentage of the annual budget of the European political party or European political foundation concerned:
    - 5 %, or
    - 7,5 % if there are concurrent infringements, or
    - 20 % if the infringement in question is a repeated infringement, or
    - a third of the percentages set out above if the European political party or European political foundation concerned has voluntarily declared the infringement before the Authority has officially opened an investigation, even in the case of a concurrent infringement or a repeated infringement, and the party or foundation concerned has taken the appropriate corrective measures,

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- 50 % of the annual budget of the European political party or European political foundation concerned for the preceding year, when it has been found by a judgment having the force of res judicata to have engaged in illegal activities detrimental to the financial interests of the Union as defined in Article 106(1) of the Financial Regulation;
- (b) in cases of quantifiable infringements, a fixed percentage of the amount of the irregular sums received or not reported in accordance with the following scale, up to a maximum of 10 % of the annual budget of the European political party or European political foundation concerned:
  - 100 % of the irregular sums received or not reported where those sums do not exceed EUR 50 000, or
  - 150 % of the irregular sums received or not reported where those sums exceed EUR 50 000 but do not exceed EUR 100 000, or
  - 200 % of the irregular sums received or not reported where those sums exceed EUR 100 000 but do not exceed EUR 150 000, or
  - 250 % of the irregular sums received or not reported where those sums exceed EUR 150 000 but do not exceed EUR 200 000, or
  - 300 % of the irregular sums received or not reported where those sums exceed EUR 200 000, or
  - one third of the percentages indicated above if the European political party or European political foundation concerned has voluntarily declared the infringement before the Authority and/or the Authorising Officer of the European Parliament has officially opened an investigation and the party or foundation concerned has taken the appropriate corrective measures.

For the application of the percentages indicated above, each donation or contribution shall be considered separately.

5. Whenever a European political party or a European political foundation has committed concurrent infringements of this Regulation, only the sanction laid down for the most serious infringement shall be imposed, unless otherwise provided in point (a) of paragraph 4.

6. The sanctions laid down in this Regulation shall be subject to a limitation period of five years from the date of commission of the infringement concerned or, in the case of continuing or repeated infringements, from the date on which those infringements ceased.

**▼M1***Article 27a***Responsibility of natural persons**

Where the Authority imposes a financial sanction in the situations referred to in points (a)(v) or (a)(vi) of Article 27(2) it may, for the purpose of recovery pursuant to Article 30(2), establish that a natural

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person who is a member of the administrative, management or supervisory body of the European political party or European political foundation, or who has powers of representation, decision or control with regard to the European political party or European political foundation is also responsible for the infringement, in the following cases:

- (a) in the situation referred to in point (a)(v) of Article 27(2) where, in the judgment referred to in that provision, the natural person has been found to be also responsible for the illegal activities in question;
- (b) in the situation referred to in point (a)(vi) of Article 27(2) where the natural person is also responsible for the conduct or inaccuracies in question.

**▼B***Article 28***Cooperation between the Authority, the Authorising Officer of the European Parliament and the Member States**

1. The Authority, the Authorising Officer of the European Parliament and the Member States via the National Contact Points shall share information and keep each other regularly informed of matters related to funding provisions, controls and sanctions.
2. They shall also agree on practical arrangements for such exchange of information, including the rules regarding the disclosure of confidential information or evidence and the cooperation among Member States.
3. The Authorising Officer of the European Parliament shall inform the Authority of any findings which might give rise to the imposition of sanctions under Article 27(2) to (4), with a view to allowing the Authority to take appropriate measures.
4. The Authority shall inform the Authorising Officer of the European Parliament of any decision it has taken in relation to sanctions, in order to enable him or her to draw the appropriate consequences under the Financial Regulation.

*Article 29***Corrective measures and principles of good administration**

1. Before taking a final decision relating to any of the sanctions referred to in Article 27, the Authority or the Authorising Officer of the European Parliament shall give the European political party or the European political foundation concerned an opportunity to introduce the measures required to remedy the situation within a reasonable period of time, which shall not normally exceed one month. In particular, the Authority or the Authorising Officer of the European Parliament shall allow the possibility of correcting clerical and arithmetical errors, providing additional documents or information where necessary or correcting minor mistakes.
2. Where a European political party or a European political foundation has failed to take corrective measures within the period of time referred to in paragraph 1, the appropriate sanctions referred to in Article 27 shall be decided.



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3. Paragraphs 1 and 2 shall not apply in relation to the conditions set out in points (b) to (d) of Article 3(1) and in point (c) of Article 3(2).

*Article 30***Recovery**

1. On the basis of a decision of the Authority removing a European political party or a European political foundation from the Register, the Authorising Officer of the European Parliament shall withdraw or terminate any ongoing decision or agreement on Union funding, except in the cases provided for in point (c) of Article 16(2) and in points (b) and (d) of Article 3(1). He or she shall also recover any Union funding, including any unspent Union funds from previous years.

2. ►**M1** A European political party or European political foundation on which a sanction has been imposed for any of the infringements listed in Article 27(1) and in points (v) and (vi) of Article 27(2)(a) shall for that reason no longer be in compliance with Article 18(2). As a result, the Authorising Officer of the European Parliament shall terminate the contribution or grant agreement or decision on Union funding received under this Regulation and shall recover amounts unduly paid under the contribution or grant agreement or decision, including any unspent Union funds from previous years. The Authorising Officer of the European Parliament shall also recover amounts unduly paid under the contribution or grant agreement or decision from a natural person in respect of whom a decision pursuant to Article 27a has been taken, taking into account, where applicable, exceptional circumstances relating to that natural person. ◀

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In the event of such termination, payments by the Authorising Officer of the European Parliament shall be limited to the reimbursable expenditure incurred by the European political party or the eligible costs incurred by the European political foundation up to the date when the termination decision takes effect.

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This paragraph shall also be applicable to the cases referred to in point (c) of Article 16(2) and in points (b) and (d) of Article 3(1).

## CHAPTER VI

**FINAL PROVISIONS***Article 31***Provision of information to citizens**

Subject to Articles 21 and 22 and to their own statutes and internal processes, European political parties may, in the context of elections to the European Parliament, take all appropriate measures to inform citizens of the Union of the affiliations between national political parties and candidates and the European political parties concerned.

**▼B***Article 32***Transparency**

1. The European Parliament shall make public, under the authority of its Authorising Officer or under that of the Authority, on a website created for that purpose, the following:

- (a) the names and statutes of all registered European political parties and European political foundations, together with the documents submitted as part of their applications for registration in accordance with Article 8, at the latest four weeks after the Authority has adopted its decision and, thereafter, any amendments notified to the Authority pursuant to Article 9(5) and (6);
- (b) a list of applications that have not been approved, together with the documents submitted as part thereof, together with the application for registration in accordance with Article 8 and the grounds for rejection, at the latest four weeks after the Authority adopted its decision;
- (c) an annual report with a table of the amounts paid to each European political party and European political foundation, for each financial year for which contributions have been received or grants have been paid from the general budget of the European Union;
- (d) the annual financial statements and external audit reports referred to in Article 23(1), and, for European political foundations, the final reports on the implementation of the work programmes or actions;
- (e) the names of donors and their corresponding donations reported by European political parties and European political foundations in accordance with Article 20(2), (3) and (4), with the exception of donations from natural persons the value of which does not exceed EUR 1 500 per year and per donor, which shall be reported as 'minor donations'. Donations from natural persons the annual value of which exceeds EUR 1 500 and is below or equal to EUR 3 000 shall not be published without the corresponding donor's prior written consent to their publication. If no such prior consent has been given, such donations shall be reported as 'minor donations'. The total amount of minor donations and the number of donors per calendar year shall also be published;
- (f) the contributions referred to in Article 20(7) and (8) and reported by European political parties and European political foundations in accordance with Article 20(2), including the identity of the member parties or organisations which made those contributions;
- (g) the details of and reasons for any final decisions taken by the Authority pursuant to Article 27, including, where relevant, any opinions adopted by the committee of independent eminent persons in accordance with Articles 10 and 11, having due regard to Regulation (EC) No 45/2001;
- (h) the details of and reasons for any final decision taken by the Authorising Officer of the European Parliament pursuant to Article 27;

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- (i) a description of the technical support provided to European political parties;
- (j) the evaluation report of the European Parliament on the application of this Regulation and on the funded activities referred to in Article 38; and
- (k) an updated list of Members of the European Parliament who are members of a European political party.

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2. The European Parliament shall make public the list of legal persons who are members of a European political party, as annexed to the party statutes in accordance with Article 4(2) and updated in accordance with Article 9(6), as well as the total number of individual members.

3. Personal data shall be excluded from publication on the website referred to in paragraph 1 unless those personal data are published pursuant to points (a), (e), or (g) of paragraph 1.

4. European political parties and European political foundations shall, in a publicly available privacy statement, provide potential members and donors with the information required by Article 10 of Directive 95/46/EC, and shall inform them that their personal data will be processed for auditing and control purposes by the European Parliament, the Authority, OLAF, the Court of Auditors, Member States, or external bodies or experts authorised thereby, and that their personal data will be made public on the website referred to in paragraph 1 under the conditions set out in this Article. The Authorising Officer of the European Parliament, in application of Article 11 of Regulation (EC) No 45/2001, shall include the same information in calls for contributions or proposals as referred to in Article 18(1) of this Regulation.

*Article 33***Protection of personal data**

1. In processing personal data pursuant to this Regulation, the Authority, the European Parliament and the committee of independent eminent persons established by Article 11 shall comply with Regulation (EC) No 45/2001. For the purposes of the processing of personal data, they shall be considered data controllers in accordance with point (d) of Article 2 of that Regulation.

2. In processing personal data pursuant to this Regulation, European political parties and European political foundations, Member States when exercising control over aspects relating to the financing of European political parties and European political foundations in accordance with Article 24, and the independent bodies or experts authorised to audit accounts in accordance with Article 23(1) shall comply with Directive 95/46/EC and with the national provisions adopted pursuant thereto. For the purposes of the processing of personal data, they shall be considered data controllers in accordance with point (d) of Article 2 of that Directive.

**▼B**

3. The Authority, the European Parliament and the committee of independent eminent persons established by Article 11 shall ensure that personal data collected by them pursuant to this Regulation are not used for any purpose other than to ensure the legality, regularity and transparency of the funding of European political parties and European political foundations and the membership of European political parties. They shall erase all personal data collected for that purpose at the latest 24 months after the publication of the relevant parts in accordance with Article 32.

4. The Member States and independent bodies or experts authorised to audit accounts shall use the personal data they receive only in order to exercise control over the financing of European political parties and European political foundations. They shall erase those personal data in accordance with applicable national law after transmission pursuant to Article 28.

5. Personal data may be retained beyond the time limits laid down in paragraph 3 or provided for by the applicable national law as referred to in paragraph 4 where such retention is necessary for the purposes of legal or administrative proceedings relating to the funding of a European political party or a European political foundation or the membership of a European political party. All such personal data shall be erased at the latest one week after the date of conclusion of the said proceedings by a final decision, or after any audits, appeals, litigation or claims have been disposed of.

6. The data controllers referred to in paragraphs 1 and 2 shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction, accidental loss, alteration or unauthorised disclosure or access, in particular where the processing of such data involves their transmission over a network, and against all other unlawful forms of processing.

7. The European Data Protection Supervisor shall be responsible for monitoring and ensuring that the Authority, the European Parliament and the committee of independent eminent persons established by Article 11 respect and protect the fundamental rights and freedoms of natural persons in the processing of personal data pursuant to this Regulation. Without prejudice to any judicial remedy, any data subject may lodge a complaint with the European Data Protection Supervisor if he or she considers that his or her right to the protection of his or her personal data has been infringed as a result of the processing thereof by the Authority, the European Parliament or the committee.

8. European political parties and European political foundations, the Member States and the independent bodies or experts authorised to audit accounts under this Regulation shall be liable in accordance with applicable national law for any damage they cause in the processing of personal data pursuant to this Regulation. The Member States shall ensure that effective, proportionate and dissuasive sanctions are applied for infringements of this Regulation, of Directive 95/46/EC and of the national provisions adopted pursuant thereto, and in particular for the fraudulent use of personal data.

**▼M1***Article 34***Right to be heard**

Before the Authority or the Authorising Officer of the European Parliament takes a decision which may adversely affect the rights of a European political party, a European political foundation, an applicant as referred to in Article 8 or a natural person as referred to in Article 27a, it shall hear the representatives of the European political party, European political foundation or applicant, or the natural person concerned. The Authority or the European Parliament shall duly state the reasons for its decision.

**▼B***Article 35***Right of appeal**

Decisions taken pursuant to this Regulation may be the subject of court proceedings before the Court of Justice of the European Union, in accordance with the relevant provisions of the TFEU.

*Article 36***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 7(2) and Article 8(3) shall be conferred on the Commission for a period of five years from 24 November 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 7(2) and Article 8(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 7(2) and Article 8(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

**▼ B***Article 37***Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

**▼ M1***Article 38***Evaluation**

The European Parliament shall, after consulting the Authority, publish by 31 December 2021 and every five years thereafter a report on the application of this Regulation and on the activities funded. The report shall indicate, where appropriate, possible amendments to be made to the statute and funding systems.

No more than six months after the publication of the report by the European Parliament, the Commission shall present a report on the application of this Regulation in which particular attention will be paid to its implications for the position of small European political parties and European political foundations. The report shall, if appropriate, be accompanied by a legislative proposal to amend this Regulation.

**▼ B***Article 39***Effective application**

Member States shall make such provision as is appropriate to ensure the effective application of this Regulation.

*Article 40***Repeal**

Regulation (EC) No 2004/2003 is repealed with effect from the date of entry into force of this Regulation. It shall however continue to apply as regards acts and commitments relating to the funding of political parties and political foundations at European level for the 2014, 2015, 2016 and 2017 budget years.

**▼ M1***Article 40a***Transitional provision**

1. The provisions of this Regulation applicable prior to 4 May 2018 shall continue to apply as regards acts and commitments relating to the funding of European political parties and European political foundations at European level for the financial year 2018.

**▼M1**

2. By way of derogation from Article 18(2a), the Authorising Officer of the European Parliament shall, before deciding on an application on funding for the financial year 2019, request the evidence referred to in Article 18(2a) only for a period from 5 July 2018.

3. European political parties registered before 4 May 2018 shall, at the latest by 5 July 2018, submit documents proving that they satisfy the conditions laid down in points (b) and (ba) of Article 3(1).

4. The Authority shall remove a European political party and its affiliated European political foundation from the Register where the party in question fails to prove within the period of time set out in paragraph 3 that it meets the conditions laid down in points (b) and (ba) of Article 3(1).

**▼B***Article 41***Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

The Commission shall adopt delegated acts as referred to in Article 7(2) and in point (a) of Article 8(3) by no later than 1 July 2015.

This Regulation shall apply from 1 January 2017. The Authority referred to in Article 6 shall however be set up by 1 September 2016. European political parties and European political foundations registered after 1 January 2017 may only apply for funding under this Regulation for activities starting in the 2018 budget year or thereafter.

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

*ANNEX***Standard declaration to be filled in by each applicant**

The undersigned, who is fully mandated by [name of the European political party or European political foundation], hereby certifies that:

[name of the European political party or European political foundation] is committed to comply with the conditions for registration laid down in point (c) of Article 3(1) or point (c) of Article 3(2) of Regulation (EU, Euratom) No 1141/2014, i.e. to observe, in particular in its programme and in its activities, the values on which the Union is founded, as expressed in Article 2 of the Treaty on European Union, namely respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

Authorised signatory:

Title (Ms, Mr, ...), surname and forename:	
Function in the organisation applying for registration as a European political party/European political foundation:	
Place/date:	
Signature:	



**5.2.1.**

**CODE OF CONDUCT ON MULTILINGUALISM**

**BUREAU DECISION**

**OF 16 JUNE 2014<sup>1</sup>**

THE BUREAU OF THE EUROPEAN PARLIAMENT,

- having regard to the Treaty on the functioning of the European Union, and in particular to Articles 24 and 342 thereof,
- having regard to Council Regulation No 1/1958 determining the languages to be used by the European Economic Community,
- having regard to Parliament's Rules of Procedure, and in particular Rules 25(2), 64(1), 73, 154(2), 156, 158, 159, 169, 193, 194 and 195,
- having regard to the Interinstitutional Agreement of 16 October 2003 on better lawmaking <sup>2</sup>
- having regard to the Joint Declaration of the European Parliament, the Council and the Commission of 13 June 2007 on practical arrangements for the codecision procedure , and in particular point 40 thereof,
- having regard to the decision of the Bureau of 11 March 2003 on Legislative Assistance to the European Parliament and its Members: 'Raising the Game',
- having regard to the decision of the Bureau of 12 December 2011 on "Resource Efficient full multilingualism in interpretation - implementation of the European Parliament's Budget 2012",
- having regard to the decision of the Bureau of 3 May 2004 on rules on travel by committee delegations outside the three places of work of the European Parliament, and in particular to Article 6 thereof,
- having regard to the decision of the Conference of Presidents of 10 March 2011 on implementing provisions governing the work of delegations, and in particular to Article 6 thereof,
- having regard to Parliament's resolution of 10 September 2013 "Towards more efficient and cost effective interpretation in the European Parliament"<sup>3</sup>
- having regard to Parliament's decision of 24 October 2007 on amendment of Rule 173 and insertion of Rule 173a of Parliament's Rules of Procedure<sup>4</sup> and to Parliament's decision of 20 November 2012 on amendment of Rules 181 and 182 of Parliament's Rules of

<sup>1</sup> This Code of Conduct replaces the Code of Conduct of 17 November 2008.

<sup>2</sup> OJ C 321, 31.12.2003, p. 1.

<sup>3</sup> P7\_TA PROV(2013)0347

<sup>4</sup> OJ C 263 E, 16.10.2008, p.409.

Procedure, both on verbatim reports and audiovisual record of proceedings (currently Rules 194 and 195 of the Rules of Procedure),

- having regard to the Framework cooperation agreement of 15 March 2006 concluded with the European Ombudsman,
- having regard to the administrative practical arrangements between the Parliament and the Council of 26 July 2011 for implementation of Article 294(4) TFEU in the event of first-reading agreements,
- having regard to the cooperation agreement of 5 February 2014 concluded between the Parliament, the Committee of the Regions and the European Economic and Social Committee.

whereas:

- (1) In its resolution of 1 June 2006 on its 2007 estimates, Parliament considered that multilingualism is a sine qua non condition for the Institution and its Members, but recognised the high cost involved in maintaining a vast translation and interpretation service. In its resolutions of 5 September 2006 on Court of Auditors' Special Report No 5/2005 on interpretation expenditure incurred by the Parliament, the Commission and the Council and of 10 July 2007 on Special Report No 9/2006 of the European Court of Auditors concerning translation expenditure incurred by the Commission, the Parliament and the Council, Parliament considered that multilingualism enables citizens to exercise their right of democratic control and that the linguistic services help the EU institutions to remain open and transparent, and it welcomed with satisfaction the high quality of the language services. In its resolution of 29 March 2012 on its 2013 estimates, Parliament defended the principle of multilingualism and highlighted the unique nature of Parliament with regard to interpretation and translation needs, while underlining the importance of interinstitutional cooperation in this field.
- (2) The documents produced by Parliament should be of the highest possible quality. Particular attention should be paid to quality when Parliament acts as a legislator, in accordance with the requirements of the Interinstitutional agreement on better lawmaking.
- (3) In order to maintain the high quality of Parliament's language services, which is indispensable to fully guarantee the right of Members to express themselves in the language of their choice, all users must scrupulously respect the obligations in this code when making use of the language services.
- (4) The implementation of full multilingualism in the long term will be contingent on making the users of language services fully aware of the costs of providing those services and hence of their responsibility to make optimal resource-efficient use of them.
- (5) During the transitional period following an enlargement, when language resources are in short supply, specific measures governing the allocation of those resources are required.

HAS ADOPTED THIS DECISION:

*Article 1*  
*General provisions*

1. Members' language-related rights shall be governed by Parliament's Rules of Procedure. Those rights shall be guaranteed on the basis of the principles governing 'resource-efficient full multilingualism'. This Code of Conduct lays down the implementing arrangements, in particular the priorities to be observed in cases where language resources are not sufficient to provide all the facilities requested.
2. Language facilities in Parliament shall be managed on the basis of the principles governing 'resource-efficient full multilingualism'. Accordingly, the right of Members to use in Parliament the official language of their choice, pursuant to Parliament's Rules of Procedure, shall be fully respected. The resources to be devoted to multilingualism shall be controlled by means of management on the basis of users' real needs, measures to make users more aware of their responsibilities and more effective planning of requests for language facilities.
3. The draft calendar of part-sessions submitted to the Conference of Presidents shall take into account, as much as possible, the constraints of 'resource-efficient full multilingualism' for the work of official bodies of the institution.
4. Interpretation and translation facilities shall be reserved for the users and the categories of documents listed in Articles 2 and 13. Save where express authorisation is granted by the Bureau on an exceptional basis, such facilities may not be made available either to Members acting on an individual basis or to outside bodies. Legal-linguistic finalisation shall be reserved for the categories of documents listed in Article 11.
5. The management of language resources shall be based on a system providing for the exchange of information between users and the language services. Users shall determine and update their language needs by means of an 'interpretation language profile' and quarterly forecasts of translation requirements designed to facilitate the medium- and long-term management of language resources. Users shall notify the language services of their real needs by the deadlines laid down in this Code of Conduct. The language services shall inform users of any shortage of resources.
6. Whereas users are competent to define their language needs, it shall be for the service providing the facilities requested to make the necessary organisational arrangements and decisions.
7. Meetings of political groups are governed by the 'Administrative Rules governing meetings of the political groups'. Where language resources do not allow all the facilities requested by a group to be provided, the arrangements laid down in this Code of Conduct shall apply.

**PART I**  
**INTERPRETATION**

*Article 2*  
*Order of priority for interpretation*

1. Interpretation shall be reserved for users in the following order of priority:
  - (a) the plenary sitting;
  - (b) priority political meetings, such as meetings of the President, Parliament's governing bodies (as defined in Title I, Chapter III of Parliament's Rules of Procedure) and the Conciliation Committees;
  - (c) (i) the parliamentary committees, parliamentary delegations and trilogues: during committee periods, parliamentary committees, delegations and trilogues shall take priority over all other users, except those referred to in point (a) and (b),  
(ii) the political groups: during part-sessions and group periods, political groups shall take priority over all other users, except those referred to in points (a) and (b);
  - (d) joint meetings of the European Parliament and EU national parliaments;
  - (e) press conferences, institutional media information actions, including seminars; other institutional communication events;
  - (f) other official bodies authorised by the Bureau and the Conference of Presidents;
  - (g) some administrative events (competition tests, seminars, general meetings of staff, etc.).

Interpretation shall be reserved as a matter of principle for meetings of parliamentary bodies. Interpretation for administrative meetings can therefore only be granted following prior authorisation by the Secretary-General, on the basis of a duly substantiated request from the user and a technical opinion drawn up by the Directorate-General for Interpretation and Conferences concerning the availability of resources with the aim of allocating the meeting concerned a time-slot not occupied by a large number of parliamentary meetings.

2. Parliament also provides an interpretation service for the ACP-EU Joint Parliamentary Assembly (in accordance with the First Protocol to the Cotonou Agreement) and for the Euro-Mediterranean Parliamentary Assembly, the Euro-Latin American Parliamentary Assembly and the Joint Parliamentary Meetings (in accordance with the rules in force) as well as for the European Ombudsman (in accordance with the Framework cooperation agreement of 15 March 2006).
3. In addition, Parliament provides interpretation services for other European Institutions and for the Committee of the Regions and the European Economic and Social Committee under the cooperation agreement of 5 February 2014.

*Article 3*  
*Interpretation system*

Interpretation for all the users referred to in Article 2(1) and (2) shall be provided exclusively by the Directorate-General for Interpretation and Conferences.

Simultaneous interpretation shall be provided using a mixed system which may draw on all generally recognised interpretation systems, in accordance with real language needs and the availability of interpreters.

*Article 4**Language arrangements for meetings in the places of work*

1. With the exception of the plenary sitting, every user shall, for meetings in the places of work, draw up at its constitution, and keep updated, an interpretation language profile based on the real needs of the Members who make up the body in question. Management of the profile shall be the responsibility of the secretariat of the body concerned, in agreement with its chair. It shall be updated regularly to take account of the languages requested and actually used, by joint agreement between the Directorate-General for Interpretation and Conferences and the secretariat of the parliamentary body concerned, on the basis of the reports referred to in Article 15. Each committee and delegation secretariat shall nominate a single contact person as the sole point of contact for the Directorate-General for Interpretation and Conferences, which in turn shall nominate a single contact person for each committee and delegation.
2. Meetings shall be organised with the active and passive languages provided for in the interpretation language profile. If forecasts concerning attendance by Members and official guests at a specific meeting make clear that a given language will not be required, the secretariat of the body concerned shall inform the Directorate-General for Interpretation and Conferences thereof.

*Article 5**Language arrangements for meetings outside the places of work*

## Parliamentary committees and delegations

1. Language arrangements shall be determined in accordance with Rule 158(3) and (4) of the Rules of Procedure, subject to confirmation by members of their attendance, by the Thursday of the second week preceding the meeting in question.
2. For missions undertaken during weeks set aside for external parliamentary activities, active interpretation shall be provided in up to five languages from the committee or delegation language profile.  
Passive interpretation of languages included in the committee or delegation language profile may be provided if it does not require an increase in the number of interpreting booths and/or interpreters. In exceptional circumstances, the Bureau may grant interpretation in more than five languages where budgetary resources and the availability of interpreters permit<sup>5</sup>.
3. For missions undertaken outside weeks set aside for external parliamentary activities, a limited language regime that may not exceed interpretation into one language from the committee or delegation profile shall be applied.

## Political groups

4. Active interpretation shall be provided in, at most, 60% of the languages in the group's interpretation language profile up to a maximum of seven languages.  
Passive interpretation of languages represented in the group may be provided if it does not require an increase in the number of interpreting booths and/or interpreters.

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<sup>5</sup> Users should introduce a duly substantiated request on the basis of which the Directorate-General for Interpretation and Conferences shall draw up a technical opinion.

If the language of the host country is not part of the group's interpretation language profile, active and passive interpreting in this language may also be provided.

In exceptional circumstances, the Bureau may grant a derogation from the rules set out in the first and second subparagraphs. When so doing, the Bureau may ask the group to contribute towards the costs incurred as a result of the derogation.

#### *Article 6*

##### *Scheduling, coordination and processing of requests for meetings with interpretation*

1. The Directorates-General for Internal Policies and External Policies and the Secretaries-General of the political groups shall submit a provisional calendar of meetings to the Directorate-General for Interpretation and Conferences no later than three months in advance, ensuring, in cooperation with the Directorate-General for Interpretation and Conferences, that meetings are spread evenly across all the time-slots of the working week. That calendar shall indicate the timetables of and venues for meetings and, to the extent possible, the languages requested.
2. The Calendar Unit of the Directorates-General for Internal Policies and External Policies, on the one hand, and the Secretaries-General of the political groups, on the other, shall take the necessary measures to coordinate requests emanating from their respective users.
3. The Directorate-General for Interpretation and Conferences shall deal with requests for interpretation and changes to such requests in the order they are received, having regard to order of priority laid down in Article 2(1).
4. The Directorate-General for Interpretation and Conferences shall provide the requisite coordination in cases where a user submits a request for a meeting with interpretation in a time-slot normally reserved for another user. However, it shall be for the user concerned to obtain, where necessary, the agreement of the political authorities to the departure from the parliamentary calendar.
5. Should competing requests with the same level of priority be submitted, or in cases of force majeure referred to in Article 8(1)(a) and (2)(a), the matter shall be submitted to the Secretary-General for prior authorisation, on the basis of a duly substantiated request from the user and a technical opinion drawn up by the Directorate-General for Interpretation and Conferences<sup>6</sup>.

#### *Article 7*

##### *Scheduling principles*

1. With the exception of plenary week and subject to the availability of human resources, the number of parallel meetings with interpretation shall not under any circumstances exceed 16 meeting per day<sup>7</sup>. Within that upper limit, the following limits apply:
  - at most 5 meetings may have coverage of up to 23 official languages (of which one, the plenary sitting, may have coverage of all official languages);

<sup>6</sup> The Directorate-General for Interpretation and Conferences may propose other available time-slots near the time-slot requested in order to insure a better staggering of meetings, in accordance with Article 6(1).

<sup>7</sup> On the basis of two time-slots per day.

- a further 4 meetings may have coverage of up to 16 official languages<sup>8</sup>;
  - a further 5 meetings may have coverage of up to 12 official languages; and
  - a further 2 meetings may have coverage of up to 6 official languages.
- Coverage of non-EU languages shall be granted only if the relevant resources are available and requests shall be dealt with by the Directorate-General for Interpretation and Conferences in accordance with the procedures laid down in Article 8(1)(b).
2. Committees shall organise their meetings during committee weeks, selecting times from:
    - Slot A: Monday lunchtime to Tuesday afternoon (maximum 3 half days), and
    - Slot B: Wednesday morning to Thursday afternoon (maximum 4 half days).

On Tuesday and Wednesday afternoons of committee weeks, 5 time slots shall be reserved for trilogues and 11 time slots for committee meetings, or 4 time slots for trilogues in the event of 12 committee meetings, with delegation meetings in principle being scheduled during Thursday afternoon time slots.
  3. The standard length of a meeting is three and a half hours per half day, with the exception of meetings of the users referred to in Article 2(1), points (a) and (b).  
Any meeting that exceeds the standard length shall require prior authorisation by the Secretary-General, on the basis of a duly substantiated request from the user and a technical opinion drawn up by the Directorate-General for Interpretation and Conferences.
  4. On-the-spot requests to extend meetings cannot be granted.

#### *Article 8*

#### *Deadlines for the submission and cancellation of requests for meetings with interpretation and language coverage*

##### *Meetings in the places of work*

1. For meetings to be held in the places of work, the following deadlines apply:

##### *(a) Requests for meetings*

Save in cases of force majeure, any request for

- an additional meeting<sup>9</sup>,
- the postponement of a meeting, or
- a change in venue

shall be submitted no later than three weeks prior to the date scheduled for the meeting in question.

Such requests shall be dealt with in accordance with the procedures laid down in Article 6.

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<sup>8</sup> Whenever resources are available, the language coverage of these meetings may, without prior authorisation, be increased to a maximum of 18 official languages.

<sup>9</sup> Meetings covered by interpreting teams placed at the disposal of the groups during part-sessions, on the basis of Article 5(1) of the administrative rules governing meetings of the political groups, shall not be considered additional meetings.

*(b) Requests for language coverage*

Requests for coverage of an additional official language shall be submitted no later than three weeks prior to the date scheduled for the meeting in question. Once that deadline has passed, such a request shall be granted only if the relevant resources are available.

Where a request for coverage of an additional official language implies the cancellation of another language, the Directorate-General for Interpretation and Conferences shall inform the user of any supplementary costs arising from the replacement of one language by another.

Requests for coverage of a non-EU language shall be submitted no later than four weeks prior to the date scheduled for the meeting in question. Once that deadline has passed, such a request shall be granted only if the relevant resources are available.

The final deadline for submitting requests for coverage of additional languages (with no guarantee that the resources will be available) and for confirming requests already made is midday on the Thursday of the week preceding the meeting in question.

Once that deadline has passed no such request may be granted unless another user in the same meeting place decides to give up the interpreting team providing the language concerned for a meeting in the same time-slot.

*(c) Cancellation*

The Directorate-General for Interpretation and Conferences shall always be notified of the cancellation of a meeting or language as soon as possible, in principle at least three weeks prior to the scheduled date for the meeting and, in any event, no later than midday on the Thursday of the week preceding the meeting. The timing of the cancellation shall serve as the basis for calculating any costs incurred and these will be taken into account by the Directorate-General for Interpretation and Conferences when reporting pursuant to Article 15.

*Meetings outside the places of work*

2. For meetings to be held outside the places of work, the following deadlines apply:

*(a) Requests for meetings*

Save in cases of force majeure, any request for

- an additional meeting<sup>10</sup>,
- the postponement of a meeting, or
- a change in venue

shall be submitted no later than six weeks prior to the date scheduled for the meeting in question.

Such requests shall be dealt with in accordance with the procedures laid down in Article 6.

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<sup>10</sup> Meetings covered by interpreting teams placed at the disposal of the groups during part-sessions, on the basis of Article 5(1) of the administrative rules governing meetings of the political groups, shall not be considered additional meetings.



*(b) Requests for languages*

Subject to Article 5, requests for coverage of an additional language shall be submitted no later than six weeks prior to the date scheduled for the meeting in question. Once that deadline has passed, such a request shall be granted only if the relevant resources are available.

Where a request for an additional language implies the cancellation of another language, the Directorate-General for Interpretation and Conferences shall inform the user of any supplementary costs arising from the replacement of one language by another.

The final deadline for submitting requests for coverage of additional languages (with no guarantee that the resources will be available) and for confirming requests already made is midday on the Thursday of the second week preceding the meeting in question.

Once that deadline has passed no such request may be granted unless another user in the same meeting place decides to give up the interpreting team providing the language concerned for a meeting in the same time-slot.

*(c) Cancellation*

The Directorate-General for Interpretation and Conferences shall always be notified of the cancellation of a meeting or language as soon as possible, in principle at least six weeks prior to the scheduled date for the meeting and, in any event, no later than midday on the Thursday of the second week preceding the meeting. The timing of the cancellation shall serve as the basis for calculating any costs incurred and these will be taken into account by the Directorate-General for Interpretation and Conferences when reporting pursuant to Article 15.

## **PART II LEGAL-LINGUISTIC FINALISATION AND TRANSLATION**

### *Article 9*

#### *Tabling and advance planning for translation and legal-linguistic services*

1. All requests for translation shall be submitted via the internal computer system. At the same time, the original of the document to be translated shall be placed by the requesting service on the 'Epades' file system, in the resource earmarked for the service and in the appropriate folder. The original text shall respect the models and mark-up requirements in force. It shall be of appropriate linguistic and drafting quality and be accompanied by all the necessary references in order to avoid duplication of translation work and to ensure the coherence and quality of the translated text.
2. On the basis of their work programmes, the secretariats of the committees, including policy departments, shall inform on a quarterly basis the translation and legal-linguistic services about the workload to be expected. In the case of exceptionally long texts and/or where exceptionally large batches of amendments are expected, an early warning shall be immediately issued to all parties involved.

3. The translation and legal-linguistic services shall likewise immediately issue an early warning to the committee secretariats and policy departments in cases where they expect difficulties in meeting the deadline requested.

*Article 10*

*Deadlines and translation lead times*

1. Texts for consideration in a parliamentary committee or delegation shall be submitted for translation via the internal computer system by the secretariat of the committee or delegation no later than 10 working days prior to the relevant meeting.  
Where the deadline of 10 working days (which includes 1 working day for the Directorate for Legislative Acts) has been respected, translated texts shall be made available in electronic form no later than 2 working days prior to the relevant meeting. Texts shall then be printed and distributed at the meeting.
2. Final reports adopted by parliamentary committees may be placed on the agenda for a part-session if they have been submitted for tabling, and, in the case of legislative final reports and amendments to the Rules of Procedure, for finalisation by the Directorate for Legislative Acts, no later than:
  - (a) one month before the relevant part-session in the case of first-reading legislative reports (COD)
  - (b) the Friday of the fourth working week preceding the relevant part-session week in the case of legislative reports adopted under the consultation or consent procedure (CNS, NLE, APP) and own-initiative reports (INL, INI)
  - (c) the Friday of the third working week preceding the relevant part-session week in the case of other reports.

Where these deadlines have been respected, reports shall be made available to the groups in all official languages by 12.00 on the Friday of the second week preceding the part-session. However, first-reading legislative reports (COD) shall be made available within 10 working days of their submission via the internal computer system.

Final reports will be submitted to the Directorate for Legislative Acts for finalisation as soon as possible after their adoption in committee and in principle no later than 2 working days after their adoption.
3. Where, in accordance with Rule 73(5) of the Rules of Procedure, an agreement is reached with Council under ordinary legislative procedure, the agreed text shall be submitted for translation by Parliament services with a deadline of 10 working days. In urgent cases, a shorter deadline may be applied, having regard to the legislative timetable agreed between the institutions.
4. For questions, the following translation lead times are required:
  - (a) Questions for written answer: 5 working days;
  - (b) Priority questions for written answer: 3 working days;
  - (c) Questions for Question Time: 1 working day.
5. For all other texts, excluding documents for the President, Parliament's governing bodies, the conciliation committees or the Secretary-General, a general translation lead time of minimum 10 working days is applied.

6. The President may grant a derogation from the deadlines referred to in paragraphs 1 and 2 in the case of texts which are urgent in the light of deadlines imposed by the Treaties or the priorities laid down by the Conference of Presidents, having regard to the legislative timetables agreed between the institutions.
7. The deadlines laid down in this Article may be extended, in agreement with the committee secretariat concerned, in the case of exceptionally long texts, exceptionally large batches of amendments, or texts for which derogation has been granted pursuant to Article 14(2).
8. In the case of group documents to be considered in plenary sitting, the tabling deadline is laid down by the Conference of Presidents in the agenda, as a general rule at 12.00 on the Wednesday of the week preceding a part-session.  
After that deadline, no changes may be made to the text tabled by the group.  
A text tabled on behalf of a group must, when tabled, bear the signature of at least one of the Members tabling.
9. Members may ask for extracts of plenary proceedings to be translated into the official language of their choice. Each Member is entitled to have up to 30 pages translated per year. This entitlement is strictly personal and non-transferable, and may not be carried over from one year to the next. The translation lead time for extracts shall, in principle, be minimum 10 working days for each language combination to be covered.  
Other official bodies of the Institution may request the translation of extracts of the verbatim report, in particular where action needs to be taken on one or more speeches.
10. Texts submitted by the President, Parliament's governing bodies, the conciliation committees or the Secretary-General and texts dealt with under urgent procedure pursuant to Rule 154(2) or submitted under Rules 105 and 106 in case of curtailed time-limits or urgencies shall be translated as soon as resources permit, taking into account the order of priority laid down in Article 13 and the deadline requested.

*Article 11*  
*Order of priority for legal-linguistic finalisation*

1. The following categories of documents shall be finalised by the Directorate for Legislative Acts in the order of priority indicated:
  - (a) agreements reached with Council under the ordinary legislative procedure;
  - (b) legislative reports from the parliamentary committees and amendments thereto;
  - (c) draft legislative reports from the parliamentary committees and amendments thereto;
  - (d) legislative opinions from the parliamentary committees and amendments thereto;
  - (e) draft legislative opinions from the parliamentary committees and amendments thereto;As regards the texts referred to in points (b) to (e), only those parts of such texts which may later be put to the vote in plenary shall be subject to finalisation, excluding justifications and explanatory statements.
2. The Directorate for Legislative Acts follows the work of the parliamentary committees and will, on request, provide advice and assistance to Members, committee secretariats as regards the drafting of the legislative and parliamentary texts referred to in paragraph 1.

3. Texts other than those referred to in paragraph 1 may be finalised by the Directorate for Legislative Acts in so far as its resources permit.

#### *Article 12*

##### *Submission and return of texts for finalisation*

1. All texts from the parliamentary committees that are subject to legal-linguistic finalisation shall be submitted to the Directorate for Legislative Acts via the ITER system before being sent for translation.
2. Except in respect of agreed texts within the meaning of Rule 73(5) of the Rules of Procedure, the Directorate for Legislative Acts will, in principle, complete the task of finalisation of a text within one working day of receiving the text.  
Non-technical changes to a text adopted in committee may only be made by the Directorate for Legislative Acts if agreed with the secretariat of the committee under the responsibility of the committee chair.  
The text finalised and modified by the Directorate for Legislative Acts and agreed with the secretariat of the parliamentary committee concerned shall replace the text first submitted by the committee for the purposes of translation and for the creation of subsequent versions. An electronic copy of the text is sent automatically to the committee secretariat concerned ('copy-back').
3. In order to enable the Directorate for Legislative Acts to complete its finalisation within one working day, committee secretariats will ensure that the person designated as responsible for a text (or a competent substitute from the secretariat concerned) is available to reply to all questions concerning that text during the period concerned.
4. The deadline laid down in this Article may be extended, in agreement with the committee secretariat concerned, in the case of exceptionally long texts, exceptionally large batches of amendments, exceptional concentration of workload, or in situations where the circumstances allow for a longer overall deadline.
5. Where, in accordance with Rule 73(5) of the Rules of Procedure, an agreement is reached with Council under ordinary legislative procedure, the Directorate for Legislative Acts will complete the tasks of finalisation within 6 weeks of receipt of translations from Parliament or Council translation services, as provided for in point 40 of the Joint Declaration of 13 June 2007 on practical arrangements for the codecision procedure and in the administrative practical arrangements of 26 July 2011 for implementation of Article 294(4) TFEU in the event of first-reading agreements.
6. For the finalisation of texts referred to in Article 11(3), deadlines will be agreed with the requesting service on an individual basis.

#### *Article 13*

##### *Order of priority for translation*

1. The following categories of documents shall be translated by the Directorate General for Translation in the order of priority indicated:
  - (a) documents to be put to the vote in plenary:
    - agreed texts in accordance with Rule 73 (5) of the Rules of Procedure,
    - legislative reports and amendments thereto,
    - non-legislative reports and amendments thereto,
    - motions for resolutions and amendments thereto;
  - (b) documents for the President, Parliament's governing bodies, the conciliation committees or the Secretary-General;
  - (c) documents for consideration in committee which may be put to the vote in plenary: draft reports, amendments, draft opinions, final opinions, draft motions for resolutions;
  - (d) other documents for consideration in committee: working documents, executive summaries.

For these categories of documents the highest quality standards shall be ensured.
2. Translation services are also available for the following users:
  - (a) the parliamentary delegations (in two official languages chosen by the delegation);
  - (b) the policy departments and research services;
  - (c) the political groups (for documents directly linked to parliamentary activity - each group may also request the translation of urgent documents up to a total of 15 pages per group per week);
  - (d) other official bodies authorised by the Bureau and the Conference of Presidents;
  - (e) Members, in particular written questions and other texts directly linked to parliamentary activity;
  - (f) Parliament's Secretariat for administrative and communication needs.
3. Parliament also provides a translation service for the ACP-EU Joint Parliamentary Assembly (in accordance with the First Protocol to the Cotonou Agreement), for the Euro-Mediterranean Parliamentary Assembly and for the Euro-Latin American Parliamentary Assembly (in accordance with the respective rules in force), as well as for the European Ombudsman (in accordance with the Framework cooperation agreement of 15 March 2006).
4. In addition, Parliament may provide translation services for the Committee of the Regions and the European and Economic Social Committee under the cooperation agreement of 5 February 2014.

#### *Article 14*

##### *The length of texts submitted for translation*

1. The following maximum lengths shall apply to texts submitted for translation:
 

(a) Explanatory statements and preparatory working documents:	7 pages for non-legislative reports 6 pages for legislative reports 3 pages for legislative opinions
(b) Draft motions for resolutions:	4 pages, including recitals but excluding citations
(c) 'Suggestions' in non-legislative opinions:	1 page

- |                                    |                |
|------------------------------------|----------------|
| (d) Justifications for amendments: | 500 characters |
| (e) Executive summaries:           | 5 pages        |

A page shall be taken to mean a text of 1 500 characters (excluding spaces).

2. A parliamentary committee may grant its rapporteur a derogation from the restrictions laid down in the first paragraph, provided that it does not exceed an annual reserve of 45 pages. The Conference of Committee Chairmen shall be informed of the derogation in advance, so that it can establish that it is consistent with the reserve allocated. Once the committee has used up its annual reserve, any further derogation shall require authorisation from the Bureau.

### **PART III FINAL PROVISIONS**

#### *Article 15*

##### *Making users and language services more aware of their responsibilities*

1. The interpretation and translation services shall inform users every six months both of the costs generated by their requests for language facilities and the level of respect of the Code.
2. At the end of each meeting, the head of the team of interpreters shall, in agreement with the secretariat of the meeting, draw up for the Director-General for Interpretation and Conferences a list of the interpretation facilities requested but not used. A copy of that list shall be forwarded to the secretariat of the meeting concerned. The secretariat of the meeting shall take note of the time at which the meeting actually closed and notify immediately the Interpretation Directorate-General for Interpretation and Conferences.
3. In addition the interpretation and translation services shall each draw up a report on the use of language services for submission to the Bureau. This report shall include an analysis of the language facilities provided in relation to the requests submitted by the users and of the costs incurred in the provision of these services.

#### *Article 16*

##### *Transitional measures following an enlargement*

Until such time as resources are sufficient to enable a full service to be provided in a new language, transitional measures for the allocation of interpretation and translation resources may be laid down, taking into account the resources available.

#### *Article 17*

##### *Entry into force*

This decision, as amended, shall enter into force on 1 July 2014. It replaces the Code of Conduct of 17 November 2008.