

**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 POLICY¹**

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 documents²,

having regard to point 1 of Annex VII, part A of its Rules of Procedure,³

having regard to Article 20 of the Bureau Decision of 28 November 2001 on public access to Parliament documents⁴,

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.

¹OJ C 298, 30.11.2002, p. 4.

²OJ L 145, 31.5.2001, p. 43.

³ Annex now deleted from the Rules of Procedure.

⁴OJ 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 2001⁵ 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.

⁵OJ 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*.