



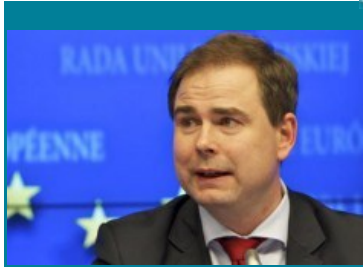
European Union

WOB value

► **Negotiations starts on an "unacceptable" proposal**

21/05

2012



Leading member of the European-Parliament calls the Danish outline on new transparency rules unacceptable, but is ready to look at "abuse use" of access by lobbyists and lawyers. Danish minister comments on Swedish' criticism: "Diversity of opinions is a well known fact, but we will work hard to achieve a result."

Backed by a majority of member states, the EU-presidency will now engage in informal discussions with the Parliament on new rules for access to EU-documents. The proposal said to enhance transparency, is not to be seen by the European public. The content is marked N/A (not accessible) in the Council's document register.

The document is never the less out in the open, thanks to London based documentations centre and civil rights organisation Statewatch, and to transparency campaigner Access-Info Europe in Madrid, (see Documents to the right).

Statewatch director Tony Bunyan has [appealed](#) the decision not to officially release central document of the dossier. Before the mandate was given Sweden and Finland announced that they would not back the proposal.

A well known fact

Swedish minister of Justice Beatrice Ask (Conservative) described it as even worse than the proposal put forward by the Commission in 2008 in [a comment to this website](#).

The minister has since then underlined her position in a letter to transparency rapporteur in the Parliament Michael Cashman (UK, Labour).

"I am certain that you will continue to strive for more transparency and I sincerely hope that we will continue to cooperate closely on this dossier," Beatrice Ask writes (see Documents).

The Danish minister of European Affairs Nicolai Wammen (Social Democrat) reacts to the criticism in a written statement to this website:

"It is a well known fact that there is a big diversity of opinions on the need for openness in the EU – both internally in the Council and between the Council and the Parliament. Now there is a real possibility to negotiate a recast of the existing rules, in accordance with the Lisbon Treaty, and the last 10 years of case law. We will from the Danish side try to take as big advantage of this possibility as possible."

Act of balance

Minister Wammen goes on to say that the Presidency will work hard to achieve a result were the present very high standard of openness in the institutions is kept, and at the same time necessary updates of the rules are made.

"This is, and will be, a very difficult act of balance. A result will under all circumstances demand that all parties involved are prepared to join in, in order for us to reach good, pragmatic and well functioning solutions. This is our point of departure for negotiations with the Parliament."

While minister Wammen plays down the Swedish criticism, Member of the European Parliament Michael Cashman returns the message from Beatrice Ask:

"My official answer to the minister is that yes you can rely on the Parliament. We will not diminish the current access and the openness that we have."

"Unacceptable"

Talking to this website Michael Cashman, makes it clear that the proposal as it stands will not be accepted by the elected EU-politicians:

"I think the Parliament apart from the Christian Democrat is fairly united. The mandate from the Council is not acceptable, and we are quite clear that we can not revert the Turco judgement on access (right to see legal advices), there cannot be block exemptions (categories of documents kept secret), and member state veto. Also the new definition of a document is unacceptable," Michael Cashman says.

The examples mentioned by Cashman will reduce transparency if adopted compared to the present regulation. At the same time the proposal explicitly says (article 12.2) that documents related to EU-legislative acts shall be made directly accessible to the public.

How does that rhyme with the exemptions mentioned above?

"You are right that the flag is up as article 12.2 is worded. These documents shall be made available, direct access that is. We have to be absolutely clear that any attempt to introduce new exceptions or derivations, do not undermine the access we have got," Michael Cashman says.

Utterly unjustifiable

If the Parliament should run out of arguments there are plenty of them to be found in an [analyses](#) of the Presidency's proposal, made by Steve Peers, professor in law at Essex university and associated to Statewatch.

After an examination article by article of the secret, but leaked, document Steve Peers finds that the draft position of the Council constitutes a significant overall reduction in the level of access to documents.

"In particular, the council's definition of a 'document' is of doubtful legality and would exclude massive numbers of documents from the scope of the rules," he notes, and adds:

"Conversely, given that the 2001 Regulation already exists, it would be profoundly foolish and utterly unjustifiable for the EP to agree to a new Regulation which amounts to an overall reduction in the current level of access to documents."

Some abusive use

So what is there to negotiate about given Michael Cashman's and Steve Peer's descriptions of the Council proposal? Michael Cashmans says:

Related

10/06/2012 New proposal rejected as the time runs out for the danes

31/05/2012 OPEN LETTER Don't do this to the citizens!

14/06/2012 The opera ain't over until...

Documents

 eu-council-access-reg-prep-trilogue-09441-12-1.pdf

 Letter to Cashman 14.05.2012.pdf

"However having said that (the proposal being unacceptable), 11 years on from when we wrote the present regulation we should try to look at what some call abusive use of the legislation by lobbyists and lawyers, which is used for a commercial gain. This might mean looking at certain files whereby you could look at protection some of that information, if its release were to undermine similar investigations or audits in the future."

"To be honest I heartily believe if the current regulation were intelligently applied it could deal with these issues, but the Council and the Commission believes otherwise. In a nutshell what I'm saying is 11 years on, of course there has been some abusive use of the regulation but by and large it works extremely well. I originally said it is organic law. So that's why we need to negotiate with them And the strength that the Parliament has, is that if there is not an agreement we have the current regulation to fall back on."

Will have to agree - or reject

What power does the Parliament have to back its views?

"The two institutions (the Council and the Parliament) are co-legislators. They have to agree. If no agreement then the EP can reject the proposal and the whole thing falls. The Commission and others argue that we have to amend it so that the Lisbon Treaty has an effect within the regulation. I don't accept that. And the legal service at the Parliament does not believe that is legally essential. The Lisbon Treaty has a legal effect now," Michael Cashman declares.

Minister Nicolai Wammen, commenting on behalf of the Presidency and the Council majority, stresses that the task is difficult, and gives an open ended comment on the likely outcome:

"If we succeed in getting a result, this will mean that Denmark has made sure that openness in all EU-institutions will be secured for the future to the benefit for all citizens and enterprises in daily touch with the EU-cooperation"

In times of crisis

As for the consequences of a failure, MEP Michael Cashmans gives a warning to the member state's governments: "Unless people understand and see what is done in their name, they will never give their trust, and we need their trust now more than ever. When things are easy people forget what's going on. When things are difficult they do know what's going on, and sadly they look for the scapegoat. In times of political and economic crisis its even more important to bring citizens closer to the Union."

Steve Peers at Statewatch also has a warning to render – to the Parliament:

"In particular, the EP should make clear to the Council that it cannot in any circumstances accept the proposed definition of a 'document'. If the Council is adamant on including this definition, the EP should instantly veto the proposal."

Staffan Dahllöf

Tags: [1049/2001](#) | [access to documents](#) | [Beatrice Ask](#) | [Michael Cashman](#) | [Nicolai Wammen](#) | [Statewatch](#) | [Steve Peers](#) | [Wob international](#) | [Legal news](#)



Wobbing.eu recommends

- HD - Krant wint weer slag in wob-zaak Haarlemmermeer
20/04 - 10:32 | FPD Feed
- Besluit op Wob-verzoek inzake beslistermijnen
16/04 - 12:45 | FPD Feed
- Bezwaar tegen weigering WOB-verzoek Molenkwartier | BredaVandaag.nl
16/04 - 12:42 | FPD Feed
- WOB-verzoek over vergunning Tristan van der V. | nu.nl/algemeen | Het laatste nieuws het eerst op nu.nl
16/04 - 12:34 | FPD Feed
- Tweede Conferentie voor Verhalende Journalistiek
22/03 - 12:34 | FPD Feed

[Go to the archive](#)

FOI community

- Finnish, Swedish Ministers Appeal for EU Transparency | Freedom Info
04/06 - 10:26 | FOI community
- To Stop Corruption: Egypt Needs a Freedom of Information Law | Freedom Info
04/06 - 10:25 | FOI community
- Draft Spanish Access Law Remains Inaccessible | Freedom Info
25/05 - 08:56 | FOI community
- Freedom of information and unusable data: TBIJ
24/05 - 12:20 | FOI community
- Liberia Announces Intention to Appoint FOI Commissioner | Freedom Info
11/05 - 09:53 | FOI community

[Go to the archive](#)

Tweets

- nmulvad: RT@tomjensen1966:Jens Rohde:Det der med at afskaffe landbrugsstøtten i EU: Glem det! Det ender bare med at den bliver renationaliseret.#fmdk 15/06 - 13:17 | Europe - Fishsubsidy
- nmulvad: RT@tomjensen1966:Jens Rohde:Det der med at afskaffe landbrugsstøtten i EU: Glem det! Det ender bare med at den bliver renationaliseret.#fmdk 15/06 - 13:17 | Denmark - Nils Mulvad
- rosenbaum6: RT@davisn:Tweets and texts and emails, oh my! http://t.co/sEEC2wLT <Illinois judge rules theyre subject to FOI, even from personal accounts 15/06 - 12:51 | United Kingdom - Martin Rosenbaum
- Hackette7: RT @fishsubsidy: Parliament Env Committee draft opinion on the fisheries fund http://t.co/dgcBcHMZ. Deadlines for amendments June 27 #CF ... 15/06 - 12:38 | Denmark & Europe - Brigitte Alfter
- Hackette7: Status of #Freedomofexpression in Denmark anno 2012 http://t.co/Da49gXD7 15/06 - 12:38 | Denmark & Europe - Brigitte Alfter

[Go to the archive](#)

Wob per country

- | | | | |
|---|---|--|---|
| <ul style="list-style-type: none">AlbaniaAustriaBelgiumBosniaBritainBulgariaCroatiaCyprosCzech RepublicDenmark | <ul style="list-style-type: none">EstoniaFinlandFranceGermanyGreeceHungaryIcelandIrelandItaly | <ul style="list-style-type: none">KosovoLatviaLithuaniaLuxembourgMacedoniaMaltaMontenegroNetherlandsNorway | <ul style="list-style-type: none">PolandPortugalRomaniaSerbiaSlovakiaSloveniaSpainSwedenSwitzerland |
|---|---|--|---|

Wob international

- Council of Europe
- European Union
- World Bank

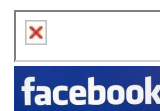
Wobbing Europe is a project by the Pascal Decroos Fund, an independent non-profit association registered in Belgium (vzw/asbl).

Contact

Wobbing Europe
Rozenweg 4b
B-1731 Zellik



Follow us on





Partners



Disclaimer | site by 2Mpact

