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More than 200 civil organisations want the European Parliament to reject a proposal for new rules on access to documents in the EU, claiming it will be a step backwards. But the Commission stands firm. Gloomy diplomat talks of a choice between plague and cholera.

Civil right-campaigners, journalist unions, non-governmental organisations and individuals have asked the European Parliament to maintain the current definition of a document, in order not to weaken the present rules of access to EU-documents.

The signatories of an [open letter](#) also ask the law makers to bring a new regulation in line with pro-transparency decisions

of the Court of Justice in the EU, to keep present deadlines for applications and to extend the scope of access regulations to all EU-bodies.

This criticism is very much in line with [the opinion of the European Ombudsman](#) P. Nikoforos Diamandouros, as well as the harsh [comments](#) from the European Data Protection Supervisor, Peter Hustinx.

The message from civil society, coordinated by campaigners [Access-Info](#) also goes down well with a majority of the parties in the European Parliament, as shown during a recent meeting with the Committee on Civil Liberties, Justice and Home Affairs (LIBE).

Member of Parliament Michael Cashman (UK, Labour) is as "rapporteur" responsible for [the main EP-report](#) on the subject. He got backing from most speakers, except from the large conservative party group EPP (European Peoples Party).

Mr Cashman is highly critical to the proposal for new rules, recasting the present rules known as regulation 1049/2001. The proposed recast was tabled in 2008.

Should the political pattern from LIBE-committee prevail at a later plenary session, there would be a comfortable majority in the Parliament in favour of transparency. The EPP group counts 265 members out of 736.

But there are components in the criticism from the Parliament that clash heads on with the two other EU-institutions, the Commission and the Council. This muddles the waters.

Besides defending present rules on access, and rejecting claimed backlashes for transparency, Michael Cashman also proposes common rules for classified documents between the EU-institutions.

He goes on to suggest that a security vetted committee in the Parliament should be given the same access to top secrets documents as politicians and civil servants have in the Commission and the Council.

This control committee would not be aloud to report any of its findings though, but function as a watchdog over the two other institutions.

The Commission rejects this proposal totally, Mr Jens Nymand Christensen from the Commission told members of the LIBE-committee at a meeting January 31.

Also pro-transparency member states of the Council have troubles to keep up a united front with the Parliament if the classification proposal is maintained.

"This is an inter-institutional question, not a questions of access to documents for the public," the argument goes.

As none of the three EU-institutions seem willing to give in on its positions the most likely outcome is a continues deadlock meaning no major changes of the present access rules.

This perspective was previously hailed as a good news, or at least a less evil solution by pro-transparency campaigners.

Not so any longer.

Rulings by the Court of Justice such as [the Bavarian Lager-case](#) and [the case of public farm subsidies](#) has, changed the scene. The notion of the Court as a beacon of transparency is less vivid today than it was only a couple of years ago.

A diplomatic source with contacts to all sides in this matter gives air to a rather gloomy outlook of the EU access rules:

"It's not longer safe to stick to the present rules and hope for good case law from the Court. We're approaching a choice between plague (good present rules with accelerating bad case law) and cholera (bad new rules with some good historical case law).

Neither the Commission nor the Council is expected to take any new initiatives until the Parliament has taken its stand on the Cashman report.

There is at the time of writing no fixed date for the further discussions, or upcoming vote in the Parliament.

Tags: 1049/2001 | Michael Cashman | transparency | Wob international | Sensitive documents | Electronic documents and data | Legal news



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