



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 April 2012

8884/12

**Interinstitutional File:
2008/0090 (COD)**

**INF 71
API 52
JUR 229
CODEC 1016**

OUTCOME OF PROCEEDINGS

from: Council Secretariat
to: Delegations
Subject: Meeting of the Working Party on Information (Transparency) on 13 April 2012

1. Adoption of the agenda

The agenda as contained in document CM 2476/1/12 REV 1 was adopted by the Working Party on Information (WPI), with the insertion of a new item under "3. Any other business" on the use of the written consultation on confirmatory applications in the WPI.

2. Transparency/Access to documents

a. Confirmatory application No 07/c/01/12

The WPI examined the draft reply to confirmatory application no 07/c/01/12 contained in document 7531/12 and agreed to forward it to Coreper and Council for adoption.

b. Intervention from a representative of Eurojust on the Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast)

Ms Deboyser, Head of Legal Service of Eurojust, intervened in the meeting on the basis of document 8698/12.

c. Recast of Regulation (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents

The note from the Presidency contained in document DS 1264/12 was examined, together with documents DS 1270/12 and DS 1276/12.

Following the ten issues identified in a previous Presidency note ¹, the Presidency concluded that the WPI had approved of the proposed text concerning the **institutional scope** (Articles 1 and 2). An agreement was also found for the **definition of a document** in Article 3, pending the inclusion of clarifications on the content of external databases in the possession of institutions. The text on 'when a document becomes a document' received positive comments, but the Presidency concluded that its place in the text would require further reflection.

The Presidency concluded that a majority of the WPI supported the proposed approach regarding **selection procedures**, although some delegations failed to see the necessity and purpose of the exception.

On the **alignment of Regulation 1049/2001 with the Aarhus Convention**, the Presidency concluded that further discussion would be necessary how to best achieve this result. The Presidency emphasised that any alignment would have to ensure the full application of the Aarhus Convention and of the Aarhus Regulation.

The WPI noted that the issue of **access to documents officers** was outside the scope of the recast process but expressed its general willingness to further explore whether it could be included in the recast of the Regulation.

On the proposed draft on the protection of **privacy and data protection**, the Presidency concluded that further clarifications were necessary. The Presidency will exchange views with the European Data Protection Supervisor before the next meeting of the WPI.

¹ Document 7995/12.

The Presidency highlighted that the note under examination contained no draft text on the issue of the **scope of the regulation and the principle of individual examination**. During the discussion, many delegations emphasised that this was a core concern for them. The Presidency concluded that the WPI supported the need for protection of certain categories of documents, such as competition files, but views as to whether the current protection was sufficient and if not which form such special treatment should have required further reflection. The Presidency emphasised that input and possible drafts from delegations on this issue should be sent to the GSC and the Presidency by Wednesday, 18 April 2012, and that it would present more details for discussion in the next meeting.

On the proposed text on **Member State documents**, the Presidency concluded that it was close to middle ground. The form of the reference to national law may be revised and resubmitted to the WPI. In this context the Chair reminded delegations of the agreement by Coreper to treat documents submitted by Member States as Council documents when their representatives act in the capacity as member of the Council. ²

On the issue of **legislative documents**, the Presidency underlined the effect of the Lisbon Treaty which emphasises the principle of openness and participatory democracy. During the discussion, delegations did not oppose to the proposed drafting in Article 12. The draft could be adjusted for the next meeting of the WPI.

The WPI also discussed the proposed procedural adjustments in Articles 6, 7 and 8. In the light of this discussion, the Presidency said that a revised draft would be submitted to the WPI.

In concluding, the Presidency said that it would consult, over the course of the following week, with the delegations that showed particular interest in specific Articles on those issues still in need of clarification. The objective for the **next meeting** of the WPI on 27 April 2012 would be to agree on proposing a negotiating mandate to Coreper. Therefore a draft paper would be circulated to delegations in advance.

² Documents 5108/02 and 6898/02.

3. Any other business

The Chair clarified the differences between:

- the informal written consultation by email at the level of the WPI, relating to the examination by delegations of draft replies to confirmatory applications; and
 - the ordinary written procedure according to Article 12(1) of the Council's Rules of Procedure which constitutes "a written vote" by the Council and to which a written reply from all delegations is needed.
-