

COUNCIL DECISION
of 20 December 1993
on public access to Council documents
(93/731/EC)

THE COUNCIL,

Having regard to the Treaty establishing the European Community, and in particular Article 151 (3) thereof,

Having regard to its Rules of Procedure, and in particular Article 22 thereof,

Whereas on 6 December 1993 the Council and the Commission approved a code of conduct concerning public access to Council and Commission documents, reaching common agreement on the principles which must govern such access;

Whereas provisions should be adopted for the implementation of those principles by the Council;

Whereas these provisions are applicable to any document held by the Council, whatever its medium, excluding documents written by a person, body or institution outside the Council;

Whereas the principle of allowing the public wide access to Council documents, as part of greater transparency in the Council's work, must however be subject to exceptions, particularly as regards protection of the public interest, the individual and privacy;

Whereas, in the interests of rationalization and efficiency, the Secretary-General of the Council should sign on behalf of the Council and on its authorization replies to applications for access to documents, except in cases where the Council is called upon to reply to a confirmatory application;

Whereas this Decision must apply with due regard for provisions governing the protection of classified information,

HAS DECIDED AS FOLLOWS:

Article 1

1. The public shall have access to Council documents under the conditions laid down in this Decision.
2. 'Council document' means any written text, whatever its medium, containing existing data and held by the Council, subject to Article 2 (2).

Article 2

1. An application for access to a Council document shall be sent in writing to the Council ⁽¹⁾. It must be made in a sufficiently precise manner and must contain information enabling the document or documents requested to be identified. Where necessary, the applicant shall be asked for further details.
2. Where the requested document was written by a natural or legal person, a Member State, another Community institution or body, or any other national or international body, the application must not be sent to the Council, but direct to the author.

Article 3

1. The applicant shall have access to a Council document either by consulting it on the spot or by having a copy sent at his own expense. The fee shall be set by the Secretary-General.
2. The relevant departments of the General Secretariat shall endeavour to find a fair solution to deal with repeat applications and/or those which relate to very large documents.
3. Anyone given access to a Council document may not reproduce or circulate the document for commercial purposes through direct sale without prior authorization from the Secretary-General.

Article 4

1. Access to a Council document shall not be granted where its disclosure could undermine:
 - the protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations),
 - the protection of the individual and of privacy,
 - the protection of commercial and industrial secrecy,
 - the protection of the Community's financial interests,

⁽¹⁾ The Secretary-General of the Council of the European Union, 170 rue de la Loi, 1048 Brussels, Belgium.

— the protection of confidentiality as requested by the natural or legal person who supplied any of the information contained in the document or as required by the legislation of the Member State which supplied any of that information.

2. Access to a Council document may be refused in order to protect the confidentiality of the Council's proceedings.

Article 5

The Secretary-General shall reply on behalf of the Council to applications for access to Council documents, except in the cases referred to in Article 7 (3), in which the reply shall come from the Council.

Article 6

Any application for access to a Council document shall be examined by the relevant departments of the General Secretariat, which shall suggest what action is to be taken on it.

Article 7

1. The applicant shall be informed in writing within a month by the relevant departments of the General Secretariat either that his application has been approved or that the intention is to reject it. In the latter case, the applicant shall also be informed of the reasons for this intention and that he has one month to make a confirmatory application for that position to be reconsidered, failing which he will be deemed to have withdrawn his original application.

2. Failure to reply to an application within a month of submission shall be equivalent to a refusal, except where the applicant makes a confirmatory application, as referred to above, within the following month.

3. Any decision to reject a confirmatory application, which shall be taken within a month of submission of such application, shall state the grounds on which it is based. The applicant shall be notified of the decision in writing as soon as possible and at the same time informed of the content of Articles 138e and 173 of the Treaty establishing the European Community, relating respectively to the conditions for referral to the Ombudsman by natural persons and review by the Court of Justice of the legality of Council acts.

4. Failure to reply within a month of submission of the confirmatory application shall be equivalent to a refusal.

Article 8

This Decision shall apply with due regard for provisions governing the protection of classified information.

Article 9

This Decision shall be reviewed after two years of operation. In 1996 the Secretary-General shall submit a report on the implementation of this Decision in 1994 and 1995, in preparation for that review.

Article 10

This Decision shall take effect on 1 January 1994.

Done at Brussels, 20 December 1993.

For the Council
The President
W. CLAES