

European Governance, Citizens' Rights of Access to Documents and the Role of Archives

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This article intends to provide an historical framework to the development of the concept of European Governance and its attempt to reach European citizens through information policies and communication strategies.¹ In recent years the European Union has produced a great number of legal texts and treaties on the issues of governance, transparency and access to documents.

I will summarise those aspects of these developments which are particularly relevant for the archival community. There are other academic communities that discuss problems of European governance, transparency and freedom of information.² However, a summary of these debates among political scientists and historians would go beyond the scope of this paper. Similarly, empirical research analysing the use European citizens make of their right of access would be a challenging topic for a future article.

European governance: historical background

In Nice in December 2000 the Member States of the European Union (EU) took the technical decision ensuring the accession of new States. However,

neither the meaning of European integration nor what they wanted to achieve together was debated to a full extent. The European Council of Laeken was called upon to take appropriate initiatives to pursue a process of reforms and a wide-ranging debate. The Nice declaration pinpointed – *inter alia* – four fundamental questions: the future role of national parliaments, the simplification of the Treaties, the status of the Charter of Fundamental Rights of the European Union, and a more precise delimitation of powers between the European Union and the Member States.³

In July 2001, the Commission presented its White Paper on governance in which it affirmed that:

... today, political leaders throughout Europe are facing a real paradox. On the one hand, Europeans want them to find solutions to the major problems confronting our societies. On the other hand, people increasingly distrust institutions and politics or are simply not interested in them. The problem is acknowledged by national parliaments and governments alike but it is particularly acute at the level of the European Union. Many people are losing confidence in a poorly understood and complex system to deliver the policies that they want. The union is often seen as remote and at the same time too intrusive ... Hence, the Union faces a double challenge: there is not only a need for urgent action to adapt governance under the existing treaties, but also for a broader debate on the future of Europe ... The White Paper proposes opening up the policy-making process to get more people and organisations involved in shaping and delivering EU policies. It promotes greater openness, accountability and responsibility for all those involved.⁴

The basic message of the White Paper was simple: EU institutions and Member States need to govern better together. Better governance means better cooperation with the aim of demonstrating for European citizens their place in the European Union's projects and in its day-to-day business. Democratic consciousness in Europe provokes a need for accountability and proportionality in the way powers vested in EU institutions are exercised.

This need is expressed more especially in transparency, clarity and the willingness to stand up to scrutiny. It has to be stressed that the term 'transparency' is frequently used in the language of the EU institutions to mean openness in their work.⁵ This term is used in a variety of documents concerning broader public access to information and to EU documents, and to more intelligible legal instruments. Complaints by European citizens concerning a lack of transparency tend to reflect a feeling that the EU institutions are remote and that decision-making procedures are difficult for them to understand.

In the wake of the Kaufmann report on European governance, a resolution adopted by the European Parliament in November 2001 strengthened these ethical requirements further.⁶ Stressing the primacy of political accountability behind legislative action, the resolution brought out the need for more transparent and equitable consultation with citizens. It regretted that the Commission did not mention the regulations on access to documents in the White Paper:

... since it is evident that proper implementation of these rules and the allocations of adequate resources to that end are of paramount importance for the achievement of good governance in the EU.⁷

The Laeken European Council in December 2001 opened a new phase of European integration. Created with six Member States, the Union now has fifteen and will soon count twenty-five Member States. The single currency and common policies on justice and security, foreign relations and defence have been added to unified economic action. In fifty years of history there have been fifty years of solid achievement but, as consequence of this process, coherence has gradually been lost.

The very success of the reconciliation between the peoples of Europe, which was at the origin of the European project, has made the EU institutions lose sight of the initial political ambition. The citizens, to whom Europe has brought peace, stability and well-being, are faced with a machinery which, increasingly, they do not understand. The legitimate expectations of citizens to have full and easy access to information on European affairs, European governance and the future of the Union call for a modern, efficient and reliable information policy. The challenge to equip the EU institutions with tools to better fulfil

their duty of informing and communicating has been an opportunity to reinforce and rethink their communication policies.⁸

Information policies and communication strategies

At the heart of European Union's information and communication policy is the obligation to bring Europe closer to its citizens. The structures and institutions themselves must adapt to this imperative giving the impression that Europe is 'just round the corner' with information that is clear, appropriate and in touch with its citizens' concerns. Similarly, it is essential for citizens to be informed about the Charter of Fundamental Rights of the European Union in order to fully benefit from it. However, the strategy for a coherent and comprehensive information and communication policy will not in itself be sufficient to resolve the issue of good governance or the 'democratic challenge'. Just like its Member States, the European Union is facing public disaffection with politics. At the European level this crisis of representation is even greater since there is no clear public perception of the legitimacy of the EU institutions. In order to fill the perceived information deficit there is therefore an increasing need for European projects to be made meaningful to European citizens.⁹

In its White Paper on European governance the Commission had already acknowledged that democracy depends on the capacity of the individual to participate in public debate; that EU institutions must not waste any time in rising to this challenge, which will only increase with the addition of more Member States.¹⁰ However, genuine communication by the European Union cannot be reduced to the mere provision of information: it must convey meaning, facilitate comprehension and dialogue within national public opinion so as to enhance the participation of the general public in the European debate.

The EU has identified three priority topics concerning communication with its citizens: enlargement of the union by the addition of more member States; the future of the European Union; and the area of freedom, security and justice. The communication strategy on enlargement focuses on the legitimacy of these countries joining the union, the considerable efforts made by these countries to adopt community law and practice, and the undeniable value added by enlargement.

The topic of the future of the European Union matches the need to provide general information and basic explanation about how Europe actually works, concerning the work of the Convention on the future of the European Union and ensuring that the outcome is properly appreciated. Lastly, the area of freedom, security and justice, developed around the issues of immigration and human rights and implying democracy and respect as basic values, is aimed at giving full meaning to the concept of European citizenship.

Among the instruments, tools and resources available to ensure that this new EU communication strategy succeeds is the *Europa* website.¹¹ *Europa* is an essential instrument for bringing the institutions closer to people and for facilitating contact between Europeans. It could be better geared to meet the information requirements of the general public and to facilitate access to information sources. *Europa* symbolises the new concepts of 'e-Commission', 'e-Europe' and 'e-governance' and should represent the interface for EU governance and its most up-to-date practices. Its main features are interactivity, rapid consultations, and a simplified administrative practice. Connected to this issue is the entry into force of the regulation on access to documents, which implements Article 255 of the Treaty of Amsterdam. This regulation represents a major challenge for the EU institutions and requires a rapid and effective response to make citizens aware of their rights.

Access to documents – a fundamental right

Governance means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence.¹² These five principles are important for establishing more democratic governance. Democracy depends on people being able to take part in public debate. In order to achieve this, they must have access to reliable information on European issues and must be able to scrutinise the policy process in its various stages.

Major progress was made in 2001 with the adoption of new rules giving citizens greater access to EU documents: the fundamental document in this respect is Regulation 1049/2001 of the European Parliament and the Council of 30 May 2001.¹³ The first paragraph of the regulation stresses its link to Article 255 of the EC Treaty, which protects the concept of openness:

... openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in the Charter of Fundamental Rights of the European Union.

It is important to stress the two fundamental elements to which the regulation refers throughout its text: Article 255 of the European Communities' Treaty and the Charter of Fundamental Rights of the European Union.

Article 255, a new article introduced by the Treaty of Amsterdam, reads as follows:

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents ... General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the Council ... within two years of the entry into force of the Treaty of Amsterdam. Each institution referred to above shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents.¹⁴

In Nice, on 7 December 2000, the European Parliament, the Council and the Commission solemnly proclaimed the Charter of Fundamental Rights of the European Union.¹⁵ Chapter V of the Charter is the chapter dedicated to citizens' rights and among other rights (the right to vote and to stand as a candidate at European and at municipal elections, the right to good administration, etc) it sets out the right of access to documents.

Article 42 of the Charter declares that:

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has the right of access to European Parliament, Council and Commission documents.¹⁶

Moreover, in its general provisions the Charter refers to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms,¹⁷ the meaning and scope of which are meant to be the same as those laid down by the Convention.¹⁸

The above quoted Regulation 1049/2001 is not a complete innovation in the framework of European citizens' right of access to documents. It rather consolidates the initiatives that EU institutions have already taken with a view to improving the transparency of the decision-making process. Its purpose is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access.¹⁹

Since the question of access to documents is not covered by provisions of the Treaties establishing the European Coal and Steel Community and the European Atomic Energy Community, the European Parliament, the Council and the Commission should draw guidance from Regulation 1049/2001 as regards documents concerning the activities covered by those two Treaties.

Following this regulation, wider access to documents should be granted in cases where the institutions are acting in their legislative capacity. Such documents should be made accessible directly and to the greatest possible extent. Access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions themselves, but also to documents received by them.²⁰ In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions.²¹

Particular attention should be drawn to some of the definitions provided by Regulation 1049/2001. For the purpose of this Regulation, 'document' shall mean:

... any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility.²²

Applications for access to a document are possible in any written form, including electronic form, in one of the EU languages and in a

sufficiently precise manner to enable the EU institution to identify the document.²³

The applicant is not obliged to state reasons for the application. Within fifteen working days from registration of the application, the institution must either grant access to the document requested and provide access within that period or, in a written reply, state the reasons for the total or partial refusal, and inform the applicant of his or her right to make a confirmatory application.²⁴ The applicant may have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference.²⁵ Documents must be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.

To make citizens' rights under this Regulation effective, each institution is required to provide public access to a register of documents.²⁶ Access to the register should be provided in electronic form.²⁷ For each document the register is to contain a reference number (including, where applicable, the inter-institutional reference), the subject or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. The institutions are required take the measures necessary to establish a register, which was to be operational by 3 June 2002. In this way, each institution is required to adapt its rules of procedure to the provisions of Regulation 1049/2001.²⁸

Document management – a strategy for access

How do EU archives face the new challenge of Regulation 1049/2001? How do they interact with European citizens' greater awareness regarding their rights of access to documents? The EU institutions (and their archives) have reacted in different ways to the implementation of Regulation 1049/2001. As a fully comprehensive comparative scheme of all definitions and procedures adopted by all the EU institutions would be a too complex task to be summarised in an article, I will concentrate here only on the most interesting definitions and measures applied.

First of all, special attention should be given to the fact that while Regulation 1049/2001 does not mention the establishment of a document

management system to implement the new rules, both the Commission and the Parliament have viewed it as an essential requirement to comply with the new rules. A complete document management model is in fact what the Commission, amending its Rules of Procedure, proposes to comply with the provisions of Regulation 1049/2001.²⁹

The Commission has been the first EU institution to stress that efficient document management is an essential prerequisite for an effective policy of public access to documents.³⁰ Consequently, all the Commission's documents are considered as products of activities and decisions in the political, legislative, technical, financial and administrative fields, and must be managed on the basis of certain rules. The documents form a direct link with the institution's current activities, similarly they reflect the Commission's past activities in its dual capacity as a EU institution and European public administration.

The rules must ensure that the Commission is able, at any time, to provide information on the subjects for which it is accountable. The documents and files kept by the Commission must therefore preserve the institution's memory, facilitate the exchange of information, provide proof of operations carried out, and meet the department's legal obligations. Implementation of the abovementioned rules requires the establishment of a filing plan, which will form part of the institution's activity-based management and will improve openness and access to documents. Finally, the establishment of a register containing the references of documents drawn up or received by the Commission will help citizens to exercise their right of access.³¹

Furthermore, the Commission, in its definition of the term 'document', goes beyond the basic elements proposed by Regulation 1049/2001, by integrating it into a wider document management concept. For the Commission, document shall mean 'any content drawn up or received by the Commission concerning a matter relating to the policies, activities and decisions falling within the institution's competence and in the framework of its official tasks, in whatever medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording).'³² The definition of the term file is also interesting:

... the core around which the documents are organised in line with the institution's activities, for reasons of proof,

justification or information and to guarantee efficiency in the work.³³

This definition, and the measures accompanying it, represent an absolute innovation in the institution's terminology. According to the Commission, document management must therefore ensure:

... the due creation, receipt and storage of documents, the identification of each document by means of appropriate signs enabling it to be filed, searched for and easily referred to, the preservation of the institution's memory, retention of proof of activities undertaken and fulfilment of the department's legal obligations, easy exchange of information and compliance with the Commission's obligations as regards openness.³⁴

Documents shall undergo the following operations: registration, filing, storage and transfer to the Historical Archives.³⁵ The Commission also suggests the regular updating of these rules, in step with the development of new information and communication technologies, changes in documentary sciences and the results of international research, including the emergence of new standards in the field.³⁶

In May 2002, the European Parliament adopted a decision on public access to documents which represents a comprehensive document management system.³⁷ The Parliament considers this system an essential tool enabling it to comply with community law on document access and ensuring that it upholds basic standards for good public administration. The Parliament underlines also that the implementation of these new measures will lead to important changes to administrative practices in the institution.

The new document management measures cover the most important aspects of a DMS: the treatment of the correspondence (incoming and outgoing),³⁸ the registration of documents,³⁹ preservation of documents,⁴⁰ data transfer to the register and updating of the register,⁴¹ and rules concerning records transfer to the archives.⁴² Shortly after Regulation 1049/2001 came into force, the Parliament was able to provide an efficient system for registration, to overcome the backlog and to present a wide range of documents⁴³ directly accessible through the register.⁴⁴

As early as May 1998, the Council had decided, first among the EU institutions, to create a register intended to contain the titles, dates and document numbers of unclassified Council documents.⁴⁵ However, when it amended its Rules of Procedure in order to comply with Regulation 1049/2001, it did not develop a document management system.⁴⁶

The Council has an almost restrictive vision regarding its procedures. The public register of Council documents⁴⁷ is meant to indicate which documents drawn up after 1 July 2000 have already been released to the public.⁴⁸ All Council documents are open to the public, provided that they are not classified and that they are legislative documents (meaning documents concerning the examination and adoption of legislative acts).⁴⁹ Compared to the definition given by Regulation 1049/2001, the Council has a restrictive definition of which kind of documents should be made available to the public:

... documents of which neither the Council nor a Member State is the author, which have been made public by their author or with his agreement, provisional agenda of meetings of the Council in its various formations, any text adopted by the Council and intended to be published in the Official Journal, provisional agenda of committees and working parties, other documents, such as information notes, reports, progress reports and reports on the state of discussions in the Council or one of its preparatory bodies which do not reflect individual positions of delegations, excluding Legal Service opinions and contributions.⁵⁰

Future developments

Despite the amendments to procedures in the three major EU institutions (following Regulation 1049/2001), the Charter of Fundamental Rights of the European Union and article 255 of the EC Treaty still open up further questions concerning EU citizens' rights of access to documents.

Firstly, the European Convention's Working Group II is working at the moment on the possible integration of the Charter of Fundamental Rights of the European Union into the reorganised Treaties.⁵¹ Reaffirming the rights and freedoms resulting from the constitutional traditions of the Member States and their international and European obligations, the

Charter's status should not be inferior to the EC Treaties. However, the procedures and consequences of an incorporation of the Charter into the Treaties and the consequences of an eventual accession by the European Union to the European Convention on Human Rights (ECHR) are still open questions awaiting a political response.⁵²

Secondly, the European Parliament, the Council and the Commission are implementing the amendments to their rules of procedure in application of Regulation 1049/2001, but the right of access to documents must be extended to all EU institutions and bodies. Currently, the treaty-based right of access to documents is limited to documents held by the European Parliament, the Council and the Commission. This creates an imbalance, as European citizens may be denied scrutiny of other institutions and bodies whose work has an impact on their daily lives. An extension of the right of access to documents should preferably be made by amendment of Article 255 of the EC Treaty.

It is equally important to strengthen and improve the right of EU officials to freedom of expression. Today, EU officials are under an almost total obligation of confidentiality. The present rules could, in theory, lead to the absurd result that an official who has an obligation to give a citizen access to a document under Regulation 1049/2001 could be subject to disciplinary proceedings under the Staff Regulations for orally conveying the same information.⁵³

Eric Ketelaar speaks about 'archives of the people, by the people and for the people',⁵⁴ while Jacques Derrida points to the imperative of any political power to control Archive and Memory.⁵⁵ According to Verne Harris 'mediating such tensions should be the vision and mission of the twenty-first century ... because it is our calling, as archivists, as workers, as human beings'.⁵⁶ For EU archivists this means becoming and remaining conscious of such tensions and being enduring mediators of them.

Endnotes

¹ The research for this article was completed in January 2003.

² Deirdre Curtin, 'Democracy, Transparency and Political Participation: Some Progress Post-Amsterdam', in Veerle Deckmyn and Ian Thompson (eds), *Openness and Transparency in the European Union*, European Institute of Public Administration, Maastricht, 1998, pp. 107-20; Deirdre Curtin and Herman

Meijers, 'Access to European Union Information: An Element of Citizenship and a Neglected Constitutional Right', in Nanette Neuwahl and Allan Rosas (eds), *The European Union and Human Rights*, International Studies in Human Rights, vol. 42, Kluwer Law International/Kluwer Academic Publications, The Hague, 1995, pp. 77-104; Juliet Lodge, 'Transparency and Democratic Legitimacy', *Journal of Common Market Studies*, vol. 32, no. 3, 1994, pp. 343-68; Neill Nugent, *The Government and Politics of the European Union*, 5th Edition, Palgrave Macmillan, New York, 2003; Ulf Öberg, 'Public Access to Documents after the Entry into Force of the Amsterdam Treaty', *European Integration Online Papers (EioP)*, vol. 2, no. 8, 1998; JHH Weiler, 'Legitimacy and Democracy of Union Governance', in Geoffrey Edwards and Alfred Pijpers (eds), *The Politics of European Treaty Reform: The 1996 Intergovernmental Conference and Beyond*, Pinter, London and Washington, 1997.

³ The Commission asked the European University Institute in Florence (EUI) to analyse the provisions of the EU and EC Treaties and draw up a basic text containing only the essential clauses, without the implementing provisions. On 15 May 2000, the Robert Schumann Centre of the EUI presented its report on the reorganisation of the Treaties to the Commission. This operation led to a Basic Treaty. Unlike a constitution, which merely defines the structure of the public authorities and their powers as well as the fundamental freedoms and rights of the people, the Treaties establishing the Communities and the Union include, sometimes in detail, the objectives of the policies which the European institutions have to follow. The authors of the EUI report felt that these policies should have a place in the Basic Treaty. 'Commission Communication - A Basic Treaty for the European Union' [COM(2000) 434 final], pp. 1-4. The concept of 'simplification' has later been widened to 'regroup legal texts, remove redundant or obsolete provisions, and shift non-essential obligations to executive measures.' 'European Governance - A White Paper' [COM(2001) 428 final], *Official Journal of the European Communities*, C 287, 12.10.2001, p. 19.

⁴ 'European Governance - A White Paper' [COM(2001) 428 final], pp. 1-2.

⁵ For the definition of transparency see: european-convention.eu.int/glossary.asp?lang=EN.

⁶ European Parliament, *Report on the Commission White Paper on European Governance*, Committee on Constitutional Affairs, Rapporteur Sylvia-Yvonne Kaufmann, 15.11.2001 [doc. PE 304.289].

⁷ *ibid.*, pp. 12, 44, 46-47.

⁸ 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee, and the Committee of the Regions on a New Framework for Co-operation on Activities concerning the Information and Communication Policy of the European Union' [COM(2001) 354 final] and 'Communication from the Commission to the Council, the

European Parliament, the Economic and Social Committee, and the Committee of the Regions on an Information and Communication Strategy for the European Union' [COM(2002) 350 final].

⁹ 'Communication on an Information and Communication Strategy' [COM(2002) 350 final], p. 6.

¹⁰ 'European Governance – A White Paper', [COM(2001) 428 final], p. 8.

¹¹ 'Europa was initially launched on the Commission's initiative and dates from 1995. Following a suggestion from the European Parliament, the Secretaries General of all institutions set up a task force in 1997 which subsequently developed into the Interinstitutional Internet Editorial Committee, with the Commission providing the Chair. One of the outcomes of this co-operation has been a common vision of the content and presentation of the headings in the general homepage and the underlying pages' in 'Communication on a new framework' [COM(2001) 354 final], p. 18. Europa website: *www.europa.eu.int*.

¹² 'European Governance – A White Paper', [COM(2001) 428 final], p. 5.

¹³ Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding Public Access to European Parliament, Council and Commission Documents, *Official Journal of the European Communities*, L 145/43, 31.05.2001.

¹⁴ The Treaty of Amsterdam was signed on 2 October 1997 and came into force on 1 January 1999.

¹⁵ Charter of Fundamental Rights of the European Union, *Official Journal of the European Communities*, C 364/1, 18.12.2000.

¹⁶ *ibid.*, Article 42, p. 19.

¹⁷ The Convention for the Protection of Human Rights and Fundamental Freedoms was drawn up within the Council of Europe. It was opened for signature in Rome on 4.11.1950 and came into force in September 1953. See: *conventions.coe.int/treaty/en/Treaties/Html/005.htm*.

¹⁸ Charter of Fundamental Rights, Article 52, p. 21.

¹⁹ Regulation (EC) 1049/2001, Article 1 – The purpose of this Regulation is: (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission documents provided for in Article 255 of the EC Treaty in such a way as to ensure the widest possible access to documents, (b) to establish rules ensuring the easiest possible exercise of this right, and (c) to promote good administrative practice on access to documents.

²⁰ Regulation (EC) 1049/2001, Article 1.

²¹ *ibid.*, Article 4 defines the exceptions as follows: 'The institutions shall refuse access to a document where disclosure would undermine the protection

of the public interest (public security, defence and military matters; privacy and the integrity of the individual and the protection of personal data; protection of commercial interests, including intellectual property, court proceedings and legal advice ... Sensitive documents shall be recorded in the register or released only with the consent of the originator ... An institution, which decides to refuse access to a sensitive document shall give the reasons for its decision.'

²² *ibid.*, Article 3 (definitions).

²³ *ibid.*, Article 6.

²⁴ *ibid.*, Article 7.

²⁵ *ibid.*, Article 10 (access following an application).

²⁶ *ibid.*, Article 11.

²⁷ *ibid.*, Article 12 regards the direct access in electronic form or through a register and also states that 'where direct access is not given through the register, the register shall as far as possible indicate where the document is located'.

²⁸ *ibid.*, Article 18 and Article 14.

²⁹ Commission Decision of 23 January 2002 amending its Rules of Procedure, notified under document number C(2002) 99 (2002/47/EC, ECSC, Euratom), Annex, *Official Journal of the European Communities*, L 21/23, 24.01.2002.

³⁰ *ibid.*, preamble, p. 1.

³¹ europa.eu.int/comm/secretariat_general/regdoc/registre.cfm?CL=en.

³² Commission Decision of 23 January 2002 (2002/47/EC, ECSC, Euratom), Article 1 (definitions).

³³ *ibid.*

³⁴ *ibid.*, Article 2.

³⁵ *ibid.*, Article 7 defines the appraisal and transfer to the Commission Historical Archives.

³⁶ *ibid.*, Article 12.

³⁷ 'Décision du Secrétaire général sur les mesures d'exécution relatives à l'enregistrement des documents', PE 318.361/BUR/ANN 1, Luxembourg 31.05.2002.

³⁸ *ibid.*, Articles 1-6.

³⁹ *ibid.*, Articles 7-16.

⁴⁰ *ibid.*, Articles 17-18.

⁴¹ *ibid.*, Articles 19-29.

⁴² *ibid.*, Articles 30-31.

- ⁴³ List of documents, adopted by the Parliament on 14 May 2002 [P5_TAPROV(2002)0216, p. 19].
- ⁴⁴ European Parliament's public register of documents presented on the web is an easy and user-friendly tool for the European citizens. See [www4/europarl.eu.int/registre/recherche/Menu.cfm?langue=EN](http://www4.europarl.eu.int/registre/recherche/Menu.cfm?langue=EN).
- ⁴⁵ Council of the European Union, *Third Report on the Implementation of Council Decision 93/731/EC on Access to Council Documents (1998-1999)*, 22 December 2000 [doc. 13275/00], p. 2.
- ⁴⁶ Council Decision of 29 November 2001 amending the Council's Rules of Procedure 2001/840/EC, *Official Journal of the European Communities*, L 313/40, 30.11.2001.
- ⁴⁷ register.consilium.eu.int/utfregister/introEN.htm.
- ⁴⁸ Council Decision of 29 November 2001, Article 10.
- ⁴⁹ *ibid.*, Article 11 (documents directly accessible to the public).
- ⁵⁰ *ibid.*
- ⁵¹ European Convention, Working Group II 'Charter/ECHR', Chairman Antonio Vitorino [doc. CONV 72/02].
- ⁵² The European Convention on Human Rights was previously called 'Convention on Fundamental Human Rights and Fundamental Freedoms' (refer to footnote 15). The text is published on the European Court of Human Rights' website: www.echr.coe.int/Eng/BasicTexts.htm.
- ⁵³ These views are expressed by Lena Hjelm-Wallen, *Increased Openness in the EU*, Input to the European Convention, doc. CONV 133/20 Annex.
- ⁵⁴ 'Archives well preserved and accessible to the people - are as essential in a free democracy as government of the people, by the people, for the people', in Eric Ketelaar, *The Archival Image*, Hilversum Verloren, 1997, p. 15.
- ⁵⁵ 'The effective democratisation is measured always with these fundamental criteria: the participation and the access to the archive, its institution and its interpretation', in J Derrida, *Mal d'Archive*, Editions Galilée, Paris, 1995, p. 15, in footnote.
- ⁵⁶ Verne Harris, 'Law, Evidence and Electronic Records: A Strategic Perspective from the Global Periphery', *Comma: International Journal on Archives*, 2001-1/2, pp. 29-43.