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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC, EURATOM) No 354/83

of 1 February 1983

concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas, in carrying out their task, the institutions of the European Economic Community and the European Atomic Energy Community have accumulated a vast collection of archives; whereas these archives constitute the property of these Communities, each of which has legal personality;

Whereas it is standard practice, both in Member States and in international organizations, to make archives available to the public after a number of years has passed; whereas common rules concerning the opening to the public of the historical archives of the European Communities should be laid down;

Whereas some of the documents and records emanating from institutions of the European Economic Community and the European Atomic Energy Community are held physically in the archives of the Member States; whereas the Member States apply different rules to determine when and on what conditions their archives may be made available to the public; whereas classified documents and records emanating from Community institutions should be prevented from being released to the public through national archives on terms less strict than those provided for in this Regulation;

Whereas the processing and critical analysis of Community archives is not only of value to historical research in general but can at the same time facilitate the activities of bodies involved in Community affairs and thereby contribute to the better attainment of all the Communities' objectives;

Whereas the Treaties have not provided for any specific powers of action regarding the establishment of common rules for this subject;

Whereas certain essential principles alone need to be determined, adoption of the requisite rules for the implementation, at internal level, of such principles being left to each Community institution,

HAS ADOPTED THIS REGULATION:

Article 1

1. The institutions of the European Economic Community and of the European Atomic Energy Community (hereinafter referred to as 'the institutions') shall establish historical archives and open them to the public on the terms provided for by this Regulation after the expiry of a period of 30 years starting from the date of the creation of the document or record. For the purposes of this Regulation the Economic and Social Committee and the Court of Auditors shall be treated in the same way as the institutions referred to in Article 4 (1) of the Treaty establishing the European Economic Community and Article 3 (1) of the Treaty establishing the European Atomic Energy Community.

2. For the purposes of this Regulation:

(a) 'Community archives' means all those documents and records of whatever type and in whatever medium which have originated in or been received by one of the institutions or by their representatives or servants in the performance of their duties, which relate to the activities of the European Economic Community and/or the European Atomic Energy Community (hereinafter referred to as 'the European Communities');

⁽¹⁾ OJ No C 132, 2. 6. 1981, p. 6.

⁽²⁾ OJ No C 327, 14. 12. 1981, p. 45.

(b) 'historical archives' consist of that part of the Community archives which has been selected, on the terms laid down in Article 7 of this Regulation, for permanent preservation.

3. All documents and records which were freely available before the expiry of the period provided for in paragraph 1 shall remain accessible to the public without restriction.

4. After the expiry of the 30-year period provided for in paragraph 1, access to the historical archives shall be given to any person who applies for it and agrees to abide by internal rules established for the purpose by each institution.

5. The historical archives shall be accessible in copy form. However, the institutions may release the originals of the documents or records if the user shows a special and duly substantiated interest.

Article 2

This Regulation shall not apply to files of the European Communities' staff or to documents and records containing information on the private or professional life of individual persons.

Article 3

1. The public shall not have access to:

- (a) documents and records that have been classified in accordance with Article 10 of Council Regulation No 3 of 31 July 1958 implementing Article 24 of the Treaty establishing the European Atomic Energy Community⁽¹⁾, and have not been declassified;
- (b) contracts submitted to or concluded by the Euratom Supply Agency pursuant to Chapter VI of the Treaty establishing the European Atomic Energy Community;
- (c) documents and records of cases submitted for judgment to the Court of Justice of the European Communities.

2. The public shall not have access to documents and records which, according to the rules and practice of each institution, are graded confidential or higher, unless they have been declassified in accordance with Article 5.

Article 4

1. Documents and records which, when brought to the notice of an institution, are covered by the obligation of professional or business secrecy shall not be

released to the public after the 30-year period unless the institution which has notice of the document or record has previously informed the person or undertaking concerned of his intention to release them to the public and that person or undertaking does not object within a period to be laid down in the rules of application referred to in Article 9.

2. Paragraph 1 shall apply also to documents and records drawn up by an institution and comprising information covered by professional or business secrecy.

Article 5

1. For the sake of compliance with the 30-year rule provided for in Article 1 (1), each institution shall in good time, and not later than the 25th year following the date of the creation of a document or record, examine all documents and records graded confidential or higher in order to decide whether or not to declassify them. Documents and records not declassified at the first such examination shall be re-examined periodically and at least every five years.

2. As regards documents and records received from a Member State or from another institution, the institutions shall abide by the classification established by the originator. However, in order to ensure the broadest possible access to Community archives, the institutions and the Member States may agree on procedures for the declassification, according to criteria adopted by common agreement, of documents and records.

Article 6

1. Member States shall refrain from releasing to the public, on terms less strict than those laid down in Articles 1 to 5, documents and records, emanating from institutions and physically held in their public archives, which have been classified and have not been declassified.

2. Paragraph 1 shall also apply to such documents and records of the Member States which reproduce in full or in part the content of the documents referred to in that paragraph.

Article 7

Each institution shall transfer to the historical archives all documents and records contained in their current archives no later than 15 years after their date of creation. According to the criteria laid down by each institution pursuant to Article 9, there shall be an initial sorting process with the purpose of separating documents and records that are to be preserved from those that have no administrative or historical value.

⁽¹⁾ OJ No 17, 6. 10. 1958, p. 406/58.

Article 8

1. Each institution may hold its historical archives in whatever place it considers most appropriate.
2. Each institution shall, on request, supply the Member States and the other institutions to the extent that the Member State concerned is not the one in which the institution is situated or the institutions

concerned are not situated in the same Member State, with a complete set of microform copies of its historical archives, in so far as public access to them is available under this Regulation.

Article 9

Each institution may adopt, at internal level, detailed rules for the application of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 February 1983.

For the Council

The President

O. SCHLECHT
