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►**B** **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

(OJ L 43, 15.2.1983, p. 1)

Amended by:

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►**M1**	Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003	L 243	1	27.9.2003

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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:

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Article 1

1. This Regulation seeks to ensure that documents of historical or administrative value are preserved and made available to the public wherever possible.

To that end, each institution of the European Community and of the European Atomic Energy Community, as well as the European Economic and Social Committee, the Committee of Regions, agencies and similar bodies set up by the legislator (hereinafter referred to as the institutions) shall establish its historical archives and open them to the

([1]) OJ No C 132, 2. 6. 1981, p. 6.
([2]) OJ No C 327, 14. 12. 1981, p. 45.

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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.

2. For the purposes of this Regulation:

(a) 'archives of the institutions of the European Communities', means all those documents 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 Community and/or the European Atomic Energy Community (hereinafter referred to as the European Communities);

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

3. All documents available to the public before expiry of the period provided for in paragraph 1 shall remain available without restriction.

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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.

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Article 2

1. In the case of documents covered by the exception relating to privacy and the integrity of the individual, as defined in Article 4(1)(b) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([1]) and that relating to the commercial interests of a natural or legal person, including intellectual property, as defined in the first indent of Article 4(2) of Regulation No 1049/2001, the exceptions may continue to apply to all or part of a document after the 30-year period if the relevant conditions for their application are satisfied.

2. Documents covered by the exception relating to privacy and the integrity of the individual, as defined in Article 4(1)(b) of Regulation (EC) No 1049/2001, including files of staff of the European Communities, may be disclosed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([2]), and in particular Articles 4 and 5 thereof.

3. Before deciding to make available to the public documents which, if disclosed, could undermine the commercial interests of a natural or legal person, including intellectual property, as defined in the first indent of Article 4(2) of Regulation (EC) No 1049/2001, the institution shall inform the person concerned, in accordance with the rules to be defined by each institution, of its intention to make the documents in question accessible to the public. The documents shall not be released if, taking account of the observations of the person concerned, the institution considers that their disclosure would undermine such commercial interests, unless there is an overriding public interest in disclosure.

4. Sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001 shall be accessible within the limits laid down in that Article.

([1]) OJ L 145, 31.5.2001, p. 43.
([2]) OJ L 8, 12.1.2002, p. 1.

▼M1

Article 3

The public shall not have access to documents 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.

Article 5

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, examine all documents classified in accordance with the rules of the institution concerned in order to decide whether or not to declassify them. Documents not declassified at the first such examination shall be re-examined periodically and at least every five years.

Article 6

Where, after the expiry of the 30-year period provided for in Article 1(1), a Member State intends to release to the public documents originating from the institutions and covered by Article 2 or Article 3, it shall consult the institution concerned in order to take a decision that does not jeopardise the attainment of the objectives of this Regulation.

Article 7

Each institution shall transfer to its historical archives all documents 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 that are to be preserved from those that have no administrative or historical value.

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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.

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Article 9

1. Each institution may adopt internal rules for the application of this Regulation. Wherever possible, the institutions shall make their archives available to the public by electronic means. They shall also conserve documents which are available in forms meeting special needs (Braille, large text or recordings).

2. Each institution shall publish information annually on its historical archiving activities.

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

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[1] OJ No 17, 6.10.1958, p. 406/58.