



**COUNCIL OF  
THE EUROPEAN UNION**

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**9699/14**

**LIMITE**

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**NOTE**

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From: The General Secretariat of the Council

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To: Delegations

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Subject: Survey on the distribution of Council documents to national Parliaments in Member States

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**I. BACKGROUND**

1. The seventeenth biannual report from the COSAC secretariat (Conference of Parliamentary Committees for Union affairs of Parliaments of the European Union) on developments in European Union procedures and practices relevant to parliamentary scrutiny<sup>1</sup> contains an analysis of information flows to and from parliaments. It showed *inter alia* that in many cases Member States provide national parliaments with access to non-public Council documents, including, in some cases, via the Extranet.
2. Access by national parliaments to European Council and Council documents is in principle a matter for the internal organisation of each Member State on the basis of its own parliamentary scrutiny procedures. Nevertheless, a number of Council documents (i.e. those which carry the PARLNAT sub-code) are transmitted by the GSC directly to national parliaments in accordance with Protocols 1 and 2 annexed to the Treaties. These documents are public and are also sent to IPEX, the communication network managed by the European Commission for exchanging documents and information between national parliaments.

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<sup>1</sup> See <http://www.cosac.eu/documents/bi-annual-reports-of-cosac/d3-17br.pdf>

3. The Council has determined specific rules governing the handling of its documents:
- (i) Unclassified Council documents covered by the obligation of professional secrecy under Article 339 TFEU should be handled in accordance with the guidelines agreed by the Council (see document 11336/11). Such documents are marked 'LIMITE'. Their distribution is internal to the Council, its members, the Commission, the European External Action Service (EEAS), and depending on the policy area, certain other EU institutions (e.g. European Parliament, Court of Justice, European Central Bank) and bodies (e.g. Committee of the Regions, European Economic and Social Committee). The untimely public disclosure of such documents could adversely affect the Council's decision-making processes.
  - (ii) Classified Council documents must be handled and stored in accordance with the Council's security rules for protecting EU classified information (Decision 2013/488/EU, OJ L274 of 15 October 2013). Unauthorised disclosure of classified information may result in disciplinary and/or legal action.
4. Moreover, in the context of the Working Party on Information, Member States were reminded last year that the obligations regarding non-disclosure of non-public Council documents must be respected by all persons to whom access to such documents is granted<sup>1</sup>. The Secretary-General had also reminded delegations of the applicable rules (doc. 14920/13).
5. In order to obtain a complete, accurate and up to date picture of the situation with regard to the distribution of Council documents to national parliaments and other entities (in particular in the context of future developments of the Extranet, the Council's document distribution system), delegations in the Coordination Committee for CIS were invited to respond to a questionnaire (see list of questions in the annex).

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<sup>1</sup> See contribution by the Legal Service on the handling of documents internal to the Council (doc. 10384/13).

## II. OVERVIEW OF SURVEY RESULTS

6. All twenty-eight delegations have responded to the survey. The results can be summarised as follows:
- (i) Twenty delegations provide access to LIMITE (i.e. non public) documents to their national or other parliaments via Extranet-L; a further three delegations provide access to certain LIMITE documents. In certain cases, there are specific agreements between national governments and the parliament that such documents will not be made public. There are a variety of situations regarding who in national parliaments has access to such documents (secretariats, some members, all members), and regarding conditions for access (e.g. upon request only);
  - (ii) Fourteen delegations indicated that national or other parliaments are granted access to documents classified RESTREINT UE/EU RESTRICTED (either electronically or in hard copy). Access is in many cases subject to a variety of conditions and controls to ensure that the requirements of the Council security rules are met;
  - (iii) Nine delegations indicated that national or other parliaments are granted access to documents classified CONFIDENTIEL UE/EU CONFIDENTIAL (either electronically or in hard copy), subject to very stringent conditions/controls to ensure that the requirements of the Council security rules are met;
  - (iv) Thirteen delegations indicated that apart from national parliaments, their authorities granted other non-ministerial bodies or persons access to LIMITE documents via Extranet-L. These entities include a large variety of bodies including regional parliaments or assemblies, regional or local authorities and semi-governmental organisations and agencies.
  - (v) Six delegations indicated that apart from national or other parliaments, their authorities granted other non ministerial bodies or persons access to documents classified RESTREINT UE/EU RESTRICTED either electronically or in hard copy (in some cases subject to conditions such as "need to know").

### III. FOLLOW-UP

7. The Secretariat intends to conduct a similar survey around every three years to maintain an up to date overview of arrangements governing the distribution of Council documents within Member States.
  8. The relevant Council bodies may consider whether any conclusions are to be drawn regarding the application of the Council's rules and guidelines governing the handling of Council documents or the distribution of non-public Council documents to the European Parliament.
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**QUESTIONS POSED IN THE SURVEY****I. Unclassified Documents**

1. Do your authorities provide access to LIMITE (i.e. non public) documents to your national or other parliaments via Extranet-L?
  - YES
  - NO
  
- 1.a. If the answer to question 1 is NO, do your authorities provide paper or electronic copies of some or all LIMITE documents to national or other parliaments? If so, please provide details of how this flow is managed and how access is organised in the parliament(s) in question.
  
- 1.b. If the answer to question 1 is YES,
  - (i) Do you systematically provide access to all LIMITE (i.e. non public) documents, or do your government authorities apply criteria to filter access only to certain categories of documents? If the latter, which ones?
  
  - (ii) Which of the following groups of persons are afforded access to such documents:
    - Secretariat staff working for the parliament in question
    - All members of the parliament in question
    - Certain members of the parliament in question

**II. Classified documents**

2. Are national or other parliaments granted access to documents classified RESTREINT UE/EU RESTRICTED (either electronically or in hard copy)?
  - YES
  - NO
  
- 2.a. If the answer to question 2. is YES, please provide details on how such access is provided and to whom. Please also provide details of how this flow is managed, in particular with regard to respecting the Council's security rules for protecting EU classified information.
  
3. Are national or other parliaments granted access to documents classified CONFIDENTIEL UE/EU CONFIDENTIEL or higher level (either electronically or in hard copy)?
  - YES
  - NO
  
- 3.a. If the answer to question 3. is YES, please provide details on how such access is provided and to whom. Please also provide details of how this flow is managed, in particular with regard to respecting the Council's security rules for protecting EU classified information.

4. Apart from national or other parliaments, do your authorities grant other non-ministerial bodies or persons access to LIMITE documents via Extranet-L?
- YES
  - NO
- 4.a. If the answer to question 4. is YES, please provide details on how such access is provided and to whom.
5. Apart from national or other parliaments, do your authorities grant other non ministerial bodies or persons access to documents classified RESTREINT UE/EU RESTRICTED (either electronically or in hard copy)?
- YES
  - NO
- 5.a. If the answer to question 5. is YES, please provide details on how such access is provided and to whom.
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