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OPINION OF THE LEGAL SERVICE*

to : Working Party on Information

No. Cion prop. : 9200/08 + COR 1 INF 103 API 23 CODEC 946 (COM(2008) 229 final)

Subject : Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast)

- Cashman report: recommended amendments by the European Parliament

I. INTRODUCTION

1. On 17 February 2009, the European Parliament's LIBE Committee adopted a report including recommended amendments on the above recast proposal.¹ This report raises a number of legal issues, regarding both the procedure and substance.

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¹ Report on the proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast) (A6-0077/2009 - PE415.164v03-00)

Accordingly, the present opinion, which has been requested by the Council's Working Party on Information, intends to provide a preliminary legal analysis of such issues: to that effect, it reproduces and develops the oral intervention made by the representative of the Council Legal Service at the Working Party meeting on 19 February 2009.

II. ISSUES OF PROCEDURE

2. The LIBE Committee report raises issues of procedure, concerning both the intended split of the Parliament's vote (amendments and legislative resolution) (a) and the scope of the recommended amendments (b).

a) Split of the Parliament's vote on the amendments and on the legislative resolution

3. The LIBE committee's rapporteur recommended that only the draft amendments to the recast proposal, but not the draft legislative resolution, be tabled for a vote by the Parliament.² This would allow the Parliament to make known its position on the legislative proposal without formally concluding the first reading. According to the rapporteur, the suspension of the Parliament's vote at first-reading will allow the necessary flexibility for the Parliament to negotiate a compromise on the legislative proposal rapidly, still at first reading, preferably on the basis of an amended Commission proposal.

² A split between the vote on the amendments to a legislative proposal and on the legislative resolution concerning that proposal is not without precedents in the Parliament's practice. Amongst other examples, the Parliament had recourse to this procedure for the adoption of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43), Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ L 262 of 7.10.2005, p.1) and Decision 2008/587/EC, Euratom of the European Parliament of 18 June 2008 amending Decision 94/262/ECSC, EC, Euratom on the regulations and general conditions governing the performance of the Ombudsman's duties (OJ L 189 of 17.7.2008, p. 25).

4. **DELETED**

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III. DELETED

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IV. **DELETED**

15. **DELETED**