

HANDLING INSTRUCTION NO 4¹

DISTRIBUTION AND CONSULTATION OF CONFIDENTIAL INFORMATION

1. INTRODUCTION

- (1) This handling instruction describes the security requirements for the distribution and consultation of confidential information in the European Parliament.
- (2) This handling instruction may be updated, in particular, when the appropriate encrypted Communication and Information Systems ("CIS") is available for exchange of confidential information.
- (3) For the purposes of this handling instruction, 'originator' means the duly authorised author of confidential information
- (4) The 'depository institution' means any European Union Institution or body forwarding confidential information to the European Parliament in accordance with Article 5(4) of the Bureau Decision.

2. PRINCIPLES

2.1 Common principles

- (5) This handling instruction distinguishes between confidential information created by the European Parliament and confidential information received by Parliament from other institutions.
- (6) Access to confidential information received from the European Commission is governed by the Framework Agreement on relations between the European Parliament and the European Commission², in particular by its Annex II which sets out the arrangements for access to and handling of confidential information.
- (7) Access to classified information received from the Council is governed by the Inter-institutional Agreement (IIA) between the European Parliament and the Council³ concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the Common Foreign and Security Policy (CFSP). International agreements subject to Article 218(6) of TFEU, and their negotiating mandates, including parts that fall under CFSP, are thus treated in line with the aforementioned IIA.

¹ Decision of the Bureau of the European Parliament of 15 April 2013 concerning the rules governing the treatment of confidential information by the European Parliament ("the Bureau Decision").

² OJ L 304, 20 November 2010, p. 47.

³ OJ C 95 of 1 April 2014, p. 1.

- (8) Confidential information formally received from depository institutions, in particular the Council or the Commission, is only accessible to Members of the European Parliament, officials of the European Parliament, other Parliament employees working for political groups and other authorised individuals, if their name or function is in the access/distribution list created by the 'originator'⁴. of such information or determined by the depository institution, and in compliance with Article 3(3), (4) and (5) of the Bureau Decision. The access/distribution list identifies the addressees.
- (9) Access to confidential information may be granted by distribution or consultation. Access to classified information created or received by the European Parliament is subject to prior authorisation in accordance with handling instruction No 12.
- (10) Distribution and consultation of confidential information is permitted only after completion of registration and notification. Distribution of confidential information shall comply with the provision on packaging and transportation laid down in handling instruction No 5.
- (11) Confidential information may not, under any circumstances, be read in public places where it might be seen by non-authorised individuals (e.g. trains, planes, cafés, bars, etc.) and may not be left unattended in public places. When not in use, confidential information shall be stored and if needed locked in accordance with handling instruction No 5. Any person responsible for compromising confidential information shall be subject to disciplinary action in accordance with the relevant rules and regulations.

2.1.1 Registration

- (12) Before distribution or consultation, confidential information shall be registered and notified to the addressees, in accordance with handling instruction No. 3.

2.1.2 Copies

- (13) The Classified Information Unit ("CIU") is the only parliamentary service entitled to make copies of information classified as CONFIDENTIEL UE/EU CONFIDENTIAL and above or equivalent. Each copy shall bear a copy number on every page, and if distributed in several copies, each copy shall bear on the first page details of the total number of copies and the total number of pages. Each copy number identifies the respective addressee thus ensuring traceability.
- (14) Copies of information classified as RESTREINT UE/EU RESTRICTED and copies of 'other confidential information' received from depository institutions shall be registered for administrative purposes by the competent parliamentary body/office holder or service.
- (15) If necessary, 'other confidential information' created by the European Parliament may be copied only with the prior consent of the originator.

⁴ 'Originator' means the duly authorised author of confidential information (see Article 2(0) of the Bureau Decision).

2.2 Distribution and consultation of confidential information

2.2.1 Distribution of confidential information

- (16) EUCI may not be distributed within Parliament.
- (17) Without prejudice to the arrangements set out in the interinstitutional agreements between the European Parliament and the European Commission, and between the European Parliament and the Council, the CIU is the only parliamentary service entitled to distribute EUCI to third parties, with the prior written consent of the originator.
- (18) 'Other confidential information' may be distributed within the European Parliament on a need-to-know basis and in accordance with the appropriate marking or any other specific instructions received from the originator, directly or through the depository institution.
- (19) 'Other confidential information' created by the European Parliament or received from depository institutions may be distributed to third parties in accordance with the appropriate marking or any specific instructions received from the originator.
- (20) Distribution of confidential information shall comply with the provisions on packaging and transportation laid down in handling instruction No 5.
- (21) Public disclosure of confidential information under Regulation (EC) No 1049/2001 shall comply with handling instruction No 6.

2.2.2 Consultation of confidential information

- (22) Consultation differs according to the level of confidentiality as follow:
 - (a) information classified as CONFIDENTIEL UE/EU CONFIDENTIAL and above or equivalent may only be consulted individually in the Secure Area. Exceptionally, information classified as CONFIDENTIEL UE/EU CONFIDENTIAL or equivalent may also be consulted in an in-camera meeting, as provided for in Article 11(3) of the Bureau Decision.
 - (b) information classified as RESTREINT UE/EU RESTRICTED or equivalent may be consulted individually either at the office of the head of unit of the parliamentary body/office holder or service that holds the information or, when the information is held by the CIU⁵, in its Secure Reading Room. Information classified as RESTREINT UE/EU RESTRICTED or equivalent may also be consulted in an in-camera meeting, as provided for in Article 11(1) of the Bureau Decision.

⁵ According to Article 6(2) of the Interinstitutional Agreement (IIA) with the Council, during the first 12 months after the entry into force of the IIA, information classified as RESTREINT UE/EU RESTRICTED or equivalent forwarded by the Council shall be treated as if it was classified as CONFIDENTIEL UE/EU CONFIDENTIAL. The IIA entered into force on 1 April 2014 (OJ C 95 of 1 April 2014, p.1). Consequently this rule applies until 1 April 2015.

- (c) 'other confidential information' may be consulted individually and in an in-camera meeting, as provided for in Article 11(1) of the Bureau Decision, according to the appropriate instructions given by its marking, as defined in handling instruction No 1, and any other specific instructions received from the originator, directly or through the depository institution.
- (23) Any person wishing to consult classified information shall sign a solemn declaration of non-disclosure of the contents of the information to third persons, of compliance with the obligation to protect the classified information and of acknowledgement of the consequences of any failure to do so. The solemn declaration shall be completed and signed at the time of consultation, before accessing the information, and kept by the parliamentary body/office holder or service of such information.
- (24) The solemn declaration is annexed hereto (Annex I).

3. PRACTICE

3.1 Distribution of confidential information

3.1.1 Distribution of EUCI created by the European Parliament to third parties

- (25) The CIU is the only parliamentary service entitled to distribute EUCI to third parties, with the prior written consent of the originator.
- (26) Information shall be packed in accordance with handling instruction No 5.
- (27) Information classified as CONFIDENTIEL UE/EU CONFIDENTIAL and above or equivalent may not be distributed by email, even when a "secure" email system is available, nor by fax, including crypto-fax.
- (28) EUCI shall be carried by staff with the appropriate authorisation. For information classified as CONFIDENTIEL UE/EU CONFIDENTIAL and above or equivalent, authorised staff holding the necessary security clearance shall follow the appropriate security measures laid down in handling instruction No 5.
- (29) In the event of copying and distribution of EUCI, each copy shall bear the copy number on every page. Additionally, each copy shall show on the first page the total number of copies and the total number of pages.

3.1.2 Distribution of EUCI received from depository institutions to third parties

- (30) Before distributing EUCI received from depository institutions to third parties, the CIU shall obtain the written consent of the depository institution.
- (31) Distribution shall then be undertaken by the CIU in accordance with the same procedure used for distribution of EUCI created by the European Parliament (see preceeding paragraph 3.1.1), unless any special arrangement is requested by the depository institution.

- (32) Upon authorisation of the depository institution, the information shall be forwarded to the addressee/copy recipients in accordance with the requirements for packaging and transportation set out in handling instruction No 5

3.1.3 Distribution of 'other confidential information' created by the European Parliament within the Parliament and to third parties

- (33) 'Other confidential information' created by the European Parliament may be distributed in accordance with the appropriate marking either by electronic means including internal e-mail if permitted for the particular marking according to handling instruction No 1 or by hard copy. If applicable, hard copies may be distributed in accordance with handling instruction No 5 using:

- (a) normal internal distribution between the three places of work of the European Parliament (Brussels, Luxembourg and Strasbourg);
- (b) postal services or commercial courier services outside the three places of work of the European Parliament.

3.1.4 Distribution of 'other confidential information' received from depository institutions within the European Parliament and to third parties

- (34) 'Other confidential information' received by the European Parliament may be distributed within the European Parliament in accordance with the appropriate marking and any specific instruction received from the originator, directly or through the depository institution.

- (35) Before distributing 'other confidential information' received from depository institutions to third parties, the parliamentary body/office holder or service holding the information shall obtain the written consent of the depository institution.

- (36) Upon authorisation of the depository institution, the information shall be forwarded to the addressee/copy recipients in accordance with the requirements for packaging and transportation set out in handling instruction No 5.

3.2 Consultation

3.2.1 Consultation of information classified as CONFIDENTIEL UE/EU CONFIDENTIAL or above and equivalent created or received by the European Parliament

- (37) Information classified as CONFIDENTIEL UE/EU CONFIDENTIAL and above or equivalent may only be consulted in the Secure Area. On an exceptional basis, information classified as CONFIDENTIEL UE/EU CONFIDENTIAL or equivalent may also be consulted in an in-camera meeting, as provided for in Article 11(3) of the Bureau Decision.

- (38) Persons authorised to consult information classified as CONFIDENTIEL UE/EU CONFIDENTIAL and above or equivalent shall reserve their consultation time slot by sending an email to the CIU (CIU@ep.europa.eu).

3.2.2 *Consultation of information classified as CONFIDENTIEL UE/EU CONFIDENTIAL or equivalent in an in-camera meeting*

- (39) Information classified as CONFIDENTIEL UE/EU CONFIDENTIAL or equivalent may be consulted in an in-camera meeting as provided for in Article 11(3) of the Bureau Decision at the request of a parliamentary committee chair, the Conference of Presidents or the Bureau. The procedure for the temporary deposit of the information with the relevant parliamentary body is set out in handling instruction No 3.
- (40) The secretariat of the parliamentary body/office holder or service responsible for the meeting shall:
- (a) ensure that the persons designated to participate in the meeting have the appropriate authorisation, as set down in handling instruction No 12, and sign the solemn declaration on the protection of EUCI annexed hereto (Annex I);
 - (b) collect the above-mentioned completed declarations;
 - (c) ensure that electronic communication devices are not taken into the room;
 - (d) ensure that all copies are provided by the CIU in accordance with the procedure set out in handling instruction No 3;
 - (e) ensure that no additional stock of documents is produced or held in the meeting rooms;
 - (f) ensure that the minutes of the meeting make no reference to the title or content of discussion on the information considered under the confidential procedure;
 - (g) ensure that classified information provided orally in the European Parliament is subject to the same level of protection as the equivalent classified information in written form;
 - (h) ensure that at the commencement of the meeting, the chair makes clear to the persons designated to participate in the meeting the classification/marketing status of the documents;
 - (i) ensure that participants are duly warned not to remove the documents from the meeting room and that participants return the documents to the person responsible for management of the meeting as set out in handling instruction No 3.

3.2.3 *Consultation of information classified as RESTREINT EU/EU RESTRICTED or equivalent*

- (41) Information classified as RESTREINT EU/EU RESTRICTED or equivalent may be consulted individually at the office of the head of unit of the parliamentary body/office holder or service holding the information or, when the

information is held by the CIU, at its Secure Reading Room. In any event, an authorised member of staff shall be present throughout the period of consultation.

- (42) When the information is held by the CIU, the parliamentary body/office holder or service shall advise addressees to reserve their consultation time slot by sending an email to the CIU (CIU@ep.europa.eu).
- (43) When information classified as RESTREINT EU/EU RESTRICTED or equivalent is held by a parliamentary body/office holder or service, the secretariat shall:
 - (a) ensure that the addressees sign the solemn declaration on the protection of EUCI annexed hereto (Annex I);
 - (b) maintain a record of consultations, including the name and status/function of persons, list of documents consulted, date and time of consultation;
 - (c) store the completed declarations;
 - (d) transmit the above records with all documents to the CIU no later than six months following consultation and, in any event, no later than one year after deposit of the documents;
 - (e) ensure that no reproduction or copy of the documents are made.

3.2.4 *Consultation of information classified as RESTREINT EU/EU RESTRICTED or equivalent in an in camera parliamentary meeting*

- (44) Information classified as RESTREINT EU/EU RESTRICTED may be consulted in an in camera meeting held at the request of a parliamentary committee chair, the Conference of Presidents or the Bureau.
- (45) In the event that the information to be consulted during an in camera meeting is held by the CIU, the procedure for the temporary deposit of the information with the relevant parliamentary body set out in handling instruction No 3 shall apply.
- (46) Unless additional security requirements are requested, the secretariat of the parliamentary body/office holder or service responsible for the meeting shall:
 - (a) ensure that only persons designated by the chair of the committee or body to participate are permitted to enter the meeting room and, further, ensure that all said persons sign the solemn declaration on the protection of EUCI annexed hereto (Annex I);
 - (b) ensure that all copies of documents are numbered, distributed on commencement of the meeting, recuperated and accounted for at the end of the meeting and, further, ensure that no notes, copies or photographs of the documents are made;

- (c) ensure that the minutes of the meeting make no reference to the content of discussion on the information considered and only make reference to the relevant decision, if appropriate;
- (d) ensure that confidential information provided orally in the European Parliament is subject to the same level of protection as the equivalent confidential information in written form;
- (e) ensure that no additional stock of documents are produced or held in meeting rooms;
- (f) distribute only the requisite number of copies of documents to participants and interpreters;
- (g) ensure that at the commencement of the meeting, the chair makes clear to the persons designated to participate in the meeting the classification/marketing status of the documents;
- (h) ensure that participants are duly warned not to remove documents from the meeting room;
- (i) ensure that no electronic communication devices or other electronic devices are allowed in the meeting room.

3.2.5 Consultation of 'other confidential information'

3.2.5.1 Individual consultation

- (47) 'Other confidential information' may only be consulted on a need-to-know basis.
- (48) The person seeking consultation shall be reminded by the holder of the 'other confidential information' of his/her obligation to respect the confidentiality of the information.
- (49) The holder of 'other confidential information' shall ensure that the consulted documents are put back in their entirety and that no copies or photographs have been taken.

3.2.5.2 Consultation in meetings of committees or of other political and administrative bodies of Parliament

- (50) 'Other confidential information' formally received by Parliament from the Council or the Commission may be consulted at a meeting of a committee or of other political and administrative bodies of Parliament. The secretariat of the parliamentary body/office or service responsible for the meeting shall:
 - (a) ensure that only persons designated by the chair of the competent committee or body to participate are permitted to enter the meeting room;

- (b) ensure that all documents are numbered, distributed at the beginning of the meeting and collected again at the end, and no notes of those documents and no photocopies or photographs thereof are taken;
 - (c) ensure that the minutes of the meeting make no mention of the content of the discussion of the information considered and only record the relevant decision, if any;
 - (d) ensure that confidential information provided orally to recipients in the European Parliament is subject to the level of protection equivalent to that applied to confidential information in written form;
 - (e) distribute only the requisite number of copies of documents to participants and interpreters;
 - (f) ensure that at the commencement of the meeting, the chair makes clear to the persons designated to participate in the meeting the marking status of the documents.
- (51) 'Other confidential information' formally received by Parliament from the Council or the Commission may also be consulted in administrative meetings. The basic principles concerning participation and respect of confidentiality as laid down in the Bureau decision shall be respected.

ANNEX:

I. Solemn declaration on the protection of EUCI