


Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2000/0032(COD) Procedure completed
Public access to European Parliament, Council and Commission documents	
See also 2009/2761(RSP) See also 2013/2637(RSP)	
Subject 1.20.05 Public access to information and documents, administrative practice 8.40 Institutions of the Union	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs		28/01/2000
		PSE CASHMAN Michael	
	Committee for opinion	Rapporteur for opinion	Appointed
	AFET Foreign Affairs, Human Rights, Common Security, Defense		12/07/2000
		ELDR MALMSTRÖM Cecilia	
	CONT Budgetary Control		22/03/2000
		PPE-DE THEATO Diemut R.	
	JURI Legal Affairs and Internal Market		29/02/2000
		V/ALE HAUTALA Heidi	
CULT Culture, Youth, Education, Media and Sport		28/01/2000	
	ELDR ANDREASEN Ole		
AFCO Constitutional Affairs (Associated committee)		27/06/2000	
	PPE-DE MAIJ-WEGGEN Hanja		
PETI Petitions		23/02/2000	
	ELDR THORS Astrid		
Council of the European Union	Council configuration	Meeting	Date
	Education, Youth, Culture and Sport	2391	29/11/2001
	General Affairs	2362	25/06/2001
	Education, Youth, Culture and Sport	2349	28/05/2001
	General Affairs	2346	14/05/2001
	General Affairs	2338	19/03/2001
European Commission	Commission DG	Commissioner	

Key events			
26/01/2000	Legislative proposal published	COM(2000)0030	Summary
13/03/2000	Committee referral announced in Parliament, 1st reading		
24/10/2000	Vote in committee, 1st reading		Summary
24/10/2000	Committee report tabled for plenary, 1st reading	A5-0318/2000	
16/11/2000	Debate in Parliament		
16/11/2000	Decision by Parliament, 1st reading	T5-0515/2000	Summary
25/04/2001	Vote in committee, 1st reading		Summary
26/04/2001	Additional information		Summary
03/05/2001	Decision by Parliament, 1st reading	T5-0221/2001	Summary
28/05/2001	Act adopted by Council after Parliament's 1st reading		
28/05/2001	Modified legislative proposal published	COM(2001)0299	Summary
30/05/2001	Final act signed		
30/05/2001	End of procedure in Parliament		
31/05/2001	Final act published in Official Journal		
25/06/2001	Resolution/conclusions adopted by Council		

Technical information	
Procedure reference	2000/0032(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	See also 2009/2761(RSP) See also 2013/2637(RSP)
Legal basis	EC Treaty (after Amsterdam) EC 255; Rules of Procedure EP 57
Stage reached in procedure	Procedure completed

Documentation gateway					
Legislative proposal		COM(2000)0030 OJ C 177 27.06.2000, p. 0070 E	26/01/2000	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0318/2000 OJ C 223 08.08.2001, p. 0006	24/10/2000	EP	
Text adopted by Parliament, partial vote at 1st reading/single reading		T5-0515/2000 OJ C 223 08.08.2001, p. 0194-0309	16/11/2000	EP	Summary

Document attached to the procedure	00320/2001 OJ L 111 20.04.2001, p. 0029	09/04/2001	CSL	Summary
Text adopted by Parliament, 1st reading/single reading	T5-0221/2001 OJ C 027 31.01.2002, p. 0019-0039 E	03/05/2001	EP	Summary
Modified legislative proposal	COM(2001)0299, OJ C 240 28.08.2001, p. 0165 E	28/05/2001	EC	Summary
Implementing legislative act	32001C0627 OJ L 173 27.06.2001, p. 0005	27/06/2001	EU	Summary
Committee of the Regions: opinion	CDR0257/2001 OJ C 107 03.05.2002, p. 0089	15/11/2001	CofR	
Implementing legislative act	32001D1229(01) OJ C 374 29.12.2001, p. 0001-0006	28/11/2001	EU	
Implementing legislative act	32005D1122(01) OJ C 289 22.11.2005, p. 0006-0011	28/11/2001	EU	Summary
Implementing legislative act	32003D0064(01) OJ L 160 28.06.2003, p. 0096-0099	11/02/2003	EU	Summary
Follow-up document	07957/2003	31/03/2003	CSL	Summary
Follow-up document	COM(2003)0216	29/04/2003	EC	Summary
Implementing legislative act	32003D0603 OJ L 205 14.08.2003, p. 0019-0023	01/07/2003	EU	Summary
Follow-up document	COM(2004)0045	30/01/2004	EC	Summary
Implementing legislative act	32004D0258 OJ L 080 18.03.2004, p. 0042-0044	04/03/2004	EU	Summary
Implementing legislative act	32004D0508 OJ L 210 11.06.2004, p. 0001-0003	04/03/2004	EU	Summary
Implementing legislative act	32004D0605 OJ L 272 20.08.2004, p. 0013-0015	13/04/2004	EU	Summary
Follow-up document	COM(2004)0347	30/04/2004	EC	Summary
Follow-up document	COM(2005)0348	29/07/2005	EC	Summary
Follow-up document	COM(2007)0185	18/04/2007	EC	Summary
Follow-up document	COM(2007)0548	24/09/2007	EC	Summary
Follow-up document	COM(2007)0841	20/12/2007	EC	Summary
Follow-up document	COM(2008)0630	10/10/2008	EC	Summary
Follow-up document	COM(2009)0331	02/07/2009	EC	Summary
Follow-up document	COM(2010)0351	30/06/2010	EC	Summary
Follow-up document	COM(2011)0492	12/08/2011	EC	Summary
Follow-up document	COM(2012)0429	02/08/2012	EC	Summary

Follow-up document		COM(2013)0515	10/07/2013	EC	Summary
Follow-up document		COM(2014)0619	08/10/2014	EC	Summary
Follow-up document		COM(2015)0391	06/08/2015	EC	Summary
Follow-up document		COM(2016)0533	24/08/2016	EC	Summary
Follow-up document		COM(2017)0738	06/12/2017	EC	Summary
Follow-up document		COM(2018)0663	03/10/2018	EC	Summary
Follow-up document		COM(2019)0356	29/07/2019	EC	Summary
Follow-up document		COM(2020)0561	15/09/2020	EC	
Follow-up document		COM(2021)0459	09/08/2021	EC	
Follow-up document		COM(2022)0498	03/10/2022	EC	
Follow-up document		COM(2023)0523	13/09/2023	EC	

Additional information

European Commission

[EUR-Lex](#)

Final act

[Regulation 2001/1049](#)
[OJ L 145 31.05.2001, p. 0043](#) Summary

Public access to European Parliament, Council and Commission documents

PURPOSE: to grant citizens and residents of the Union the right of access to documents of the European Parliament, the Council and the Commission.

CONTENT: in line with the provisions of Article 255 of the EC Treaty, it is provided that the Commission presents a report on the general principles and limits governing the right of access to documents of the three institutions, which must be adopted under codecision procedure within two years of the entry into force of the Amsterdam Treaty, i.e. before 01/05/2001.

This proposal aims to open this right of access to every citizen in the Union without having to justify his/her interest. The legislation will cover all documents held by the three institutions, i.e. documents drawn up by them or emanating from third parties and in the possession of the institutions. The right of access will also extend to documents relating to the common foreign and security policy and police and judicial cooperation in criminal matters, as well as documents relating to activities under the ECSC and the Euratom Treaties.

The proposal defines the term "document" as any form of content irrespective of the medium on which it is carried. It will cover only administrative documents, i.e. any document on a topic which falls within the institutions remit, excluding documents expressing individual opinions or reflecting free and frank discussions or the provision of advice as part of internal consultations and deliberations, as well as informal messages such as e-mail messages which can be considered as telephone conversations.

Specific rules relating to access to documents or files already exist in connection with certain procedures. It is therefore important to stipulate clearly that the future rules governing the right of access to documents will not apply where specific rules already exist for certain persons who have a particular interest in information or where there are rules governing the confidentiality of certain documents. In addition, there are exceptions to the right of access and as under the present system; all the exceptions are based on a "harm test". This means that institutions shall refuse access to documents where disclosure could significantly undermine the protection of the public interest (public security, defence and international relations, financial or economic interest or the effective functioning of the institutions), the respect of privacy and the individual or even the protection of commercial and industrial secrecy.

Furthermore, this proposal contains provisions on the processing of initial applications (all applications for access to a document shall be made in writing in a sufficiently precise manner), remedies and the ways of exercising the rights to access (in particular, the eventual cost of access to the person requesting the information). Specific rules are also provided relating to non-reproduction of documents for commercial purposes or other forms of economic exploitation.

Moreover, it is also provided to supply an amended version of the document if one part of it is covered by one of the exceptions in the draft Regulation.

Lastly, a number of final provisions are proposed, designed to:

- commit the institutions covered by the Regulation to taking the necessary steps to inform citizens of their right and to set up public registers of documents ;
- remind the institutions that they must lay down in their rules of procedure specific provisions for the implementation of the general principles and limits laid down in this Regulation .

It is also highly desirable that the three institutions should undertake to adopt a number of additional measures in order to ensure a consistent approach in the implementation of the new rules governing public right of access to their documents. Such measures include training and informing their staff and reviewing existing procedures for registering, filing, archiving and classifying documents.

Public access to European Parliament, Council and Commission documents

The committee adopted the report by Michael CASHMAN (PES, UK) amending the proposal under the codecision procedure (first reading). The committee wanted the title of the regulation to be amended to include a reference to improving transparency in the working methods of the EU institutions. It also introduced an article on the purpose of the regulation, pointing out that it was the exercise of an obligation introduced into the EC Treaty giving effect to the principle of openness and accountability. It also stated unequivocally that the proposed regulation should not reduce the right of Member States to grant access to documents in accordance with their national legislation. The committee felt that the list of exceptions to the right to access proposed by the Commission in order to protect certain public and private interests would provide a justification for the exclusion of practically any document, and therefore deleted a number of them. It proposed that access be denied on grounds of public interest where disclosure could significantly undermine public security, monetary stability, defence and military matters, and vital interests relating to the EU's international relations. Access should also be denied where disclosure could harm the protection of an individual's right to privacy. Lastly, the committee proposed that access be denied on grounds of commercial secrecy where this outweighed the public and private interest in disclosure. The report stipulated that applications for access to a document should be dealt with within two weeks. It also set out more clearly than in the Commission proposal the remedies available to citizens in the event of a refusal (i.e. petitioning the European Ombudsman or appealing to the European Court of Justice). The Commission's proposal that each institution should provide access to a register of documents was fleshed out by the committee, which listed the types of document to be included in the register and stated that documents should be made directly accessible "on-line" wherever possible. Lastly, the committee specified that the institutions would have to agree on common measures for implementing the regulation when drawing up their internal rules. These concerned the classification of documents, the treatment and protection thereof, the transmission of such documents, and procedures for providing classified information to a select committee of Parliament. Existing internal rules on access to documents, including the recent Council decision refusing access to security and defence documents, would have to be repealed. ?

Public access to European Parliament, Council and Commission documents

After voting 401 to 3 with 44 abstentions, heavily amending Commission proposal designed to improve public access to EU documents, the Parliament decided to refer the issue back to committee to enable further discussions to take place with Commission and Council with a view to securing a compromise on the amendments. Parliament want to limit the grounds for possible exceptions to just a small number of cases. (Refer to the previous document). Mr Michael CASHMAN (PES, UK), the rapporteur, stressed the need for the proposal to be watertight and detailed as it would eventually constitute a legal text. ?

Public access to European Parliament, Council and Commission documents

In a Decision on making certain categories of Council documents available to the public, all the documents which may be made available to the public are precisely defined. Thus, in virtue of this Decision (2001/320/EC of the Council), the Secretariat General shall make the following documents available to the public as soon as they have been circulated: - documents of which neither the Council nor a Member State is the author, which have been made public by their author or with his agreement; - provisional agenda of meetings of the Council in its various formations; - any text adopted by the Council and intended to be published in the Official Journal of the European Communities; - provisional agenda of committees and working parties; information notes, reports, progress reports and reports on the state of discussions in the Council or one of its preparatory bodies which do not reflect individual positions of delegations, excluding Legal Service opinions and contributions. However, at the request of a Member State, documents which are covered by the preceding subparagraph and reflect the individual position of that Member State in the Council, shall not be made available to the public under this Decision. The Decision also consists of a chapter which details specific rules for legislative documents. Cover notes and copies of letters concerning legislative acts addressed to the Council by other institutions or bodies of the European Union or, by a Member State; notes submitted to Coreper and/or to the Council for approval, as well as the draft legislative acts to which they refer and decisions adopted by the Council during the codecision procedure which may also be made public. The General Secretariat shall make available to the public any legislative documents relating to this act which were drawn up before this decision and which are not covered by any of the exceptions laid down in Article 4(1) of Decision 93/731/EC, such as information notes, reports, progress reports and reports on the state of discussions in the Council or in one of its preparatory bodies ("outcomes of proceedings"), excluding Legal Service opinions and contributions. ENTRY INTO FORCE : this Decision shall take effect on 1 May 2001.?

Public access to European Parliament, Council and Commission documents

The committee adopted the report by Michael CASHMAN (PES, UK) proposing a series of compromise amendments to the proposal, following the compromise agreement hammered out between Parliament, Commission and Council the same day. The report had been referred back to committee after the plenary's first reading vote in November 2000, and negotiations had taken place since then with Commission and Council on the many amendments proposed by Parliament. The first reading could now be concluded with the vote in plenary on the compromise amendments and, as there was already an agreement with the Council and Commission, no further readings would be necessary. The rapporteur lauded the compromise agreement as a radical departure from the Commission's original proposal and a huge improvement on the current situation. ?

Public access to European Parliament, Council and Commission documents

A compromise agreement on the proposal was finally hammered out between Parliament, Commission and the Council on 25 April 2001. The agreement between the three European institutions means that every EU citizen and legal person will have the right of access to all documents of those institutions, with some well-defined exceptions. Other EU agencies and bodies will also have to provide public access to their documents. The main points of the regulation on public access to documents are as follows: Exceptions to public access will be made in the case of documents which would harm the public interest in the fields of public security, defence and military matters, international relations and financial, monetary or economic policy. The same applies to documents which would infringe an individual's privacy. Access may also be refused to documents where this would undermine a legal person's business interests, and to documents concerning legal proceedings, inspections and investigations or financial audits, unless it is of overriding public interest that access be granted. Equally, publication of documents for internal use shall be refused if this would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure. In order to enable citizens to make use of their right of access to documents, all the institutions will have to provide a register of documents. Documents which have been classified as secret or confidential in order to protect vital interests of the EU or of one of the Member States shall, however, only be registered or released with the consent of the originator of the document. Refusal to grant access must be based on the exceptions laid down relating to public security, defence and military matters, international relations or financial, monetary or economic policy. Parliament must, however, be informed about these documents. Also, each institution will have to publish an annual report giving the number of cases in which it refused access and the reasons for doing so, as well as the number of confidential or secret documents not recorded in the register. Member States receiving a request for publication of a document originating from one of the EU institutions shall consult the institution in question and then take a decision which does not jeopardise the objectives of the EU regulation. One of the recitals to the regulation states, however, that the regulation will not have the effect or object of amending existing national legislation on access to documents. Any application for a document will have to be dealt with within 15 working days. In the event of a refusal the requesting party can submit a confirmatory application. If the answer is again negative, an appeal may be lodged with the European Court of Justice or a complaint can be submitted to the European Ombudsman. The Commission will publish a report on the implementation of the regulation in 2004 and if necessary make recommendations as to possible changes. ?

Public access to European Parliament, Council and Commission documents

The European Parliament voted by 388 votes to 87 with 12 abstentions to adopt the report by Mr Michael CASHMAN (PES, UK) on public access to documents held by the European institutions. The vote confirms the compromise agreement reached on this report. (Please refer to the previous documents).

Public access to European Parliament, Council and Commission documents

Following the informal "trialogue" meeting convened to seek a compromise solution to Parliamentary amendments, the European Parliament agreed to revise substantially its initial amendments to the proposed Directive as drafted following the first reading of the co-decision procedure. Bearing in mind the negotiations and compromises reached the European Commission acknowledges the need to incorporate into its revised proposal the amendments numbered 81 to 119 adopted by Parliament at its sitting on 3 May. The more pertinent amendments now incorporated into the proposed Regulation can be summarised as follows: - Definitions. The restriction on access to documents for internal use, such as discussion documents, opinions of departments or informal messages, has now been removed. The definition of documents that currently applies will therefore remain unchanged. Documents for internal use are nevertheless protected by specific exceptions and are listed in Article 4 (3). - Nature of the exceptions. Documents may still be disclosed where the interest to be protected is overridden by the public interest in disclosure. However, where the harm likely to be caused by disclosure outweighs the interest in disclosure, the institution must refuse access. - List of exceptions. The Commission, as a compromise, agreed not to list infringement proceedings, as an overriding exception. - Protection of the "space to think". Here, a new paragraph has been included which protects documents for internal use, before a decision is taken, and documents containing opinions for use as part of deliberations and preliminary consultations within the institutions, even after a decision has been taken in some cases. - Third-party documents. Institutions may consult with third parties prior to disclosure in order to establish whether it is to be refused under one of the exceptions. The exceptions are to apply only for the period during which protection is justified - normally more than thirty years after the document was written. - Disclosure by Member State. A new paragraph seeks Member State/Institutional consultation prior to the release of a document in order not to jeopardise the objectives of the Regulation. - Applications. Replies should be forwarded within 15 working days. - Treatment of sensitive documents. Applications are to be handled only by staff entitled to acquaint themselves with such documents. Sensitive documents are to be recorded in a register or released only with the consent of the originator. - Registers, direct access and publications. The three institutions have indicated their intention of developing the dissemination of documents by electronic means. - Monitoring and follow-up measures. An inter-institutional committee is to be established dealing with follow-up and the application of the Regulation. - Compatibility with existing legislation. Other legislation effected by this Regulation will be examined to ensure it remains compatible with the objectives of the Regulation. - Other Agencies. The provisions of the Regulation will be applicable to agencies set up by the institutions covered. Those bodies not covered by the Regulation are urged to adopt internal rules on public access compatible with the Regulation. - Compatibility with existing legislation. Other legislation effected by this Regulation will be examined to ensure it remains compatible with the objectives of the Regulation. - Other Agencies. The provisions of the Regulation will be applicable to agencies set up by the institutions covered. Those bodies not covered by the Regulation are urged to adopt internal rules on public access compatible with the Regulation.

Public access to European Parliament, Council and Commission documents

PURPOSE: to allow all European citizens access to documents of the institutions. COMMUNITY MEASURE: Regulation 1049/2001/EC of the European Parliament and the Council concerning public access to documents of the European Parliament, the Council and the Commission. CONTENT: The purpose of this Regulation is to give fullest possible effect to the right of public access to documents and to lay down the

general principles and limits on such access in accordance with Article 255(2) of the EC Treaty. Wider access should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers, while at the same time preserving the effectiveness of the institutions decision-making process. Such documents should be made directly accessible to the greatest possible extent. Institutions are required to take measures necessary to establish a register which shall be operational by 03.06.2002. As far as possible, the institutions shall make documents directly accessible to the public in electronic form and in particular, legislative documents. As regards public access, there is a limited number of exceptions. For example, when disclosure of documents would undermine the public interest as regards public security, defence and military matters, international relations and the financial, monetary or economic policy of the Community or a Member State. Other exceptions include, inter alia, the undermining of commercial interests, court proceedings and legal advice. A Member State may request the institutions not to disclose a document originating from that Member State without its prior agreement. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, the institutions shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with this Article. As regards the processing of confirmatory applications, within 15 working days from registration of such an application, the institution shall either grant access to the document requested and provide access or in a written reply, state the reasons for the total or partial refusal. In principle, access to documents is free of charge and an electronic copy is also possible. However, the cost of producing and sending copies may be charged to the applicant. All institutions are required to publish an annual report on the application of the new regulation. In 2004, the Commission will publish a report on the implementation of the Regulation and present, where necessary, proposals for revisions. ENTRY INTO FORCE: The regulation will enter into force on 03.06.2001. It shall be applicable from 03.12.2001.?

Public access to European Parliament, Council and Commission documents

In the context of the adoption of the Regulation on public access to documents on 30 May 2001, the Council, Commission and Parliament have made the following joint declaration: "The European Parliament, the Council and Commission agree that the agencies and similar bodies created by the legislator should have rules on access to their documents which conform to those of this Regulation. To this effect, the European Parliament and the Council welcome the Commission's intention to propose, as soon as possible, amendments to the acts establishing the existing agencies and bodies and to include provisions in future proposals concerning the establishment of such agencies and bodies. They undertake to adopt the necessary acts rapidly." The Institutions also called upon those institutions and bodies not covered by para 1 "to adopt internal rules on public access to documents which take account of the principles and limits in this Regulation."?

Public access to European Parliament, Council and Commission documents

PURPOSE : to bring together the measures relating to the register of European Parliament documents in a single decision with a view to facilitating transparency for citizens.

EUROPEAN PARLIAMENT BUREAU DECISION ON PUBLIC ACCESS TO EUROPEAN PARLIAMENT DOCUMENTS : 28 November 2001.

CONTENT : a register of references shall be established within the European Parliament. The register of references thus created shall contain references to documents drawn up or received by the European Parliament as from the date from which Regulation 1049/2001/EC is applicable, that is, 3 December 2001. The register of references shall be structured so as to allow: use of a uniform reference system; direct access to documents, in particular legislative documents, in electronic form; identification of documents which cannot be accessed electronically; searches for documents which are not adequately identified by applicants; the identification of documents in respect of which public

access is subject to the limits laid down in Articles 4 and 9 of Regulation 1049/2001/EC; recording of confidential documents, in compliance with the limits laid down in Article 9 of the above Regulation.

All documents drawn up or received by the European Parliament under the legislative procedure must be accessible

to citizens in electronic form. In this connection, the European Parliament will make all legislative documents accessible through the register, to enable citizens to have access to the full texts of documents. The European Parliament will make this register electronically accessible on the Europarl website and provide on-line assistance to citizens concerning arrangements for submitting applications for access to documents. Other documents, in particular documents relating to the drafting of policy or strategy, shall be made directly accessible as far as possible. The categories of documents that are directly accessible shall be set out in a list adopted by the European Parliament

and annexed to its Rules of Procedure. Documents not included on that list will be accessible on written request.

Documents drawn up or received by the European Parliament outside the legislative procedure shall, as far as possible, be directly accessible to citizens through the register, subject to the limits laid down in Regulation 1049/2001/EC.

ENTRY INTO FORCE : 29/12/2001. The register of references shall take effect on 03/06/2002.

Public access to European Parliament, Council and Commission documents

COMMUNITY MEASURE : Committee of the Regions Decision No 64/2003 on public access to Committee of the Regions documents.

CONTENT : having regard to Regulation 1049/2001/EC of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents, these institutions request the other institutions to adopt internal rules regarding public access to documents, taking into account the principles and limits set out in this Regulation. This Decision stipulates that any citizens of the Union and any natural or legal person residing or having its registered office in a Member State shall have a right of access to Committee of the Regions documents, subject to the principles, conditions and limits set out in Regulation 1049/2001/EC and the specific provisions laid down in this decision. The Decision states that: - a register of documents shall be established within the Committee of the Regions; - the register thus

created shall contain references to documents drawn up or received by the institution as from the date from which Regulation 1049/2001/EC is applicable; - the full texts of documents shall be published on the Committee's Internet site; - any document drawn up by the Committee shall be entered in the register as soon as possible. The Secretary-General shall adopt the necessary internal implementing measures to ensure that all documents drawn up by the Committee are recorded; - documents drawn up under the consultative procedure or for the purpose of other Committee business shall be entered in the register as soon as they have been tabled or made public, under the responsibility of the body or service which is the originator of the document; - other documents which fall within the remit of the administrative services of the Secretariat-General of the Committee shall, as far as possible, be entered in the register as soon as authorised by the originating service; - any document received by the Committee from a third party shall be forwarded by the official mail service to the register, which shall enter it, unless it is a sensitive document; - all documents drawn up or received by the Committee under the consultative procedure must be accessible to citizens in electronic form, as far as possible; - in this connection, the Committee will make all consultative documents accessible through the register, to enable citizens to have direct access to the full texts of documents: - the Committee will make this register electronically accessible on its Internet site and will provide on-line assistance to citizens concerning arrangements for submitting applications for access to documents; - other documents, in particular more political or strategic documents, shall be made directly accessible as far as possible. - documents drawn up or received by the Committee outside the consultative procedure shall, as far as possible, be directly accessible to citizens through the register; - where entry of a document in the register does not permit direct access to the full text, either because the document is not available in electronic form or because the exceptions provided for are applicable, the applicant may apply for access to the document in writing, or using the electronic form available on the website. The Committee may either grant access to the document or give the reasons for its total or partial refusal in writing. Technical conditions concerning the delivery of documents and the cost are also stipulated. Within a time limit of 15 working days from the registration of the application, the service responsible for the register shall grant access to the requested document and shall supply it within the same time limit. Where the Committee is unable to grant access to the requested document, it shall notify the applicant in writing of the grounds for its total or partial refusal and inform the applicant of his or her right to make a confirmatory application. Lastly, concerning the issue of documents and cost of the reply, the Decision states that documents are to be supplied in the form of a copy, or in electronic format, with full regard to the applicant's preference. If a document has already been released by the Committee or by another institution and is easily accessible, the Committee may facilitate access to the document by informing the applicant how to obtain the requested document. The cost of producing and sending copies may be charged to the applicant. This charge may not exceed the real cost of the operation. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge. ENTRY INTO FORCE : This Decision repeals the Committee of the Regions Bureau Decision No 165/1997 of 17 September 1997 on public access to Committee of the Regions documents. This decision shall enter into force on 28/06/2003 and shall take effect from 1 June 2003.

Public access to European Parliament, Council and Commission documents

This document consists of the annual report of the Council on the implementation of Regulation 1049/2001/EC of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. To recall, Article 17(1) of Regulation 1049/2001/EC stated that each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register. As regards the regulatory, administrative and practical adaptations. In order to comply with this Regulation, the Council made adaptations to its Rules of Procedure and internal instructions as well as to its administrative practices. It also ensured that the public register of Council documents complies with the requirements of the Regulation. The report presents an analysis of requests for access, requests from the public for access to Council documents are processed in the initial phase by the General Secretariat of the Council. In the event of a total or partial refusal of access by the General Secretariat of the Council to a document, the applicant may submit a confirmatory application asking the institution to reconsider its position. In the event of a total or partial refusal of a confirmatory application, the applicant may lodge a complaint with the European Ombudsman and/or institute proceedings before the Court of First Instance of the European Communities. Annex I to this report provides statistics on public access to Council documents for the period of 3 December 2001 to 31 December 2002; the comparative figures for the period 1999-2002 are in Annex II. During the reference period, 10 330 documents were requested from the Council, following 2 491 requests for access received from the public. Compared to previous years, the number of requests has risen sharply - it practically doubled between 2001 (1 234) and 2002 (2 394) - while the number of documents requested increased very slightly (8 090 in 2001 compared with 9 317 in 2002). Several factors explain this situation: - if the number of documents directly accessible to the public increases, the number of documents requested decreases; - requests are increasingly centring on documents classified "RESTREINT UE" or on documents which are sensitive within the meaning of Regulation No 1049/2001 ("CONFIDENTIEL UE", "SECRET UE" and "TRES SECRET UE/EU TOP SECRET" documents). As far as initial applications are concerned, applicants are principally students and researchers (23,5%). The industrial and commercial sector (14,5%), pressure groups (13%) and lawyers (10,5%) are also among the best represented social and professional categories. Applicants are not required to give their identity or the reasons for their application, usually sent via email, so the profession of a significant percentage (22%) of applicants is unknown. In the case of confirmatory applications, most applicants are also students or researchers (31,8%). Journalists account for 18,2% of applicants at the confirmatory stage. As regards the geographical distribution of applicants, it should be noted that the majority of initial applications come from Belgium (27,5%), Germany (13%) and the United Kingdom (9,5%). Applications originating from third countries (outside the EU) represent 6,5% of the total. The vast majority of confirmatory applications come from the United Kingdom (40,9%). As regards the fields covered by the applications, applicants have a marked interest in justice and home affairs (24,5%). Then, starting with the most common, applications are made for documents on the internal market (14,5%), economic and monetary policy (10,5%), external relations and CFSP (8,5%) and the environment (8%). During the reference period, the General Secretariat examined 10 330 documents and made 9 114 of them available in the initial phase. Only 44 confirmatory applications were made (i.e. less than 2% of initial applications), as a result of which the Council decided to disclose an additional 89 documents (24 totally and 65 partially). Concerning the number of refusals of access, the report shows that out of the 10 330 documents requested during the observation period, 1 127 were refused (initial and confirmatory phases taken together), giving a rate of access (total and partial access taken together) of 89,1%. It should be noted that the practice of partial access allows the Council to increase greatly the number of documents disclosed: the rate of access of 77,8% (total access only) reaches 89,1% when documents approved for partial access are taken into account. With initial applications, the grounds for refusal most often invoked is the protection of the decision-making process, which accounts for over a quarter of refusals (27,9%), followed by the protection of the public interest as regards international relations (24%), the protection of the public interest as regards public security (22,9%) and the protection of legal advice (12,2%). In 10,3% of cases, several grounds for refusal were invoked: therefore, protection of the decision-making process is often given in conjunction with protection of the public interest as regards public security (5,3%) or international relations (4,8%). As regards confirmatory applications, protection of the decision-making process is invoked in 37,5% of cases, and in 14,3% of refusals these grounds are given in conjunction with the protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State.?

Public access to European Parliament, Council and Commission documents

On 30 May 2001, the European Parliament and the Council adopted Regulation 1049/2001/EC regarding public access to European Parliament, Council and Commission Documents. This Regulation, which implements the new Article 255 of the Treaty establishing the European Community, is in line with the more general policy of transparency and information, of which it forms an intrinsic part. The policy of transparency, in turn, represents one of the pivotal features of European governance, particularly as regards the principles of openness, participation and responsibility. Other action has been taken with regard to transparency, information and relations with European citizens. The Commission has, for example, adopted minimum standards for the consultation of civil society organisations. It has continued to work towards simplifying and improving the regulatory environment and has proposed a new information and communication strategy to the Council. Regulation 1049/2002 became applicable on 3 December 2001, thereby replacing the rules on access previously introduced by the three institutions. Article 17(1) stipulates that "each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register". The present document is the first annual report of this kind drawn up by the Commission. It is of a factual nature and takes stock of how the Regulation has been implemented during its first year in force by all Commission services, including OLAF. On the basis of the information contained in this report and in the similar reports produced by the European Parliament and the Council, the European Commission will publish a report on the implementation of the principles of the Regulation by January 2004, in accordance with Article 17(2) of the Regulation. The report is divided into three parts: 1) an overview of the action taken to implement the Regulation; 2) an analysis of the practical application of the Regulation; 3) figures on the application of the Regulation. To illustrate the trends in requests for access to Commission documents, the report also presents the data on the last three years of implementation of the Code of Conduct introduced pursuant to Decision 94/90. The data can thus be used to compare four years during which a policy of transparency towards the public has been in force. As regards the practical application of the Regulation in 2002, the report states that the year 2002 was marked by a major change in the policy of allowing access to Commission documents. The number of initial requests, which had remained relatively constant during the last three years of implementing the Code of Conduct, more than doubled during the first year of implementing Regulation 1049/2001 (the number rose from 450 requests in 2001 to 991 in 2002). The number of confirmatory requests also almost doubled. Although there are no objective factors which explain the reasons for this spectacular increase in the number of requests, it can no doubt be attributed largely to the adoption of the Regulation and the publicity surrounding it and to the opening of the public register. The type of requests and their origin have also changed during the past year. Some trends are worth mentioning: - an increase in requests has been particularly noticeable in the fields of competition and of customs and taxation; the percentage of requests in these areas has doubled, which means a fourfold increase in absolute figures. However, the percentage of requests concerning the internal market has remained constant (which still means that the actual number of requests has doubled), while the percentage of requests relating to environmental policy has fallen to less than a half (the number of requests remains more or less the same in absolute figures). It is noteworthy that almost 40 % of the total number of requests falls within the remit of 4 Directorates-General, whereas the Secretariat-General deals with 15 % of the total number of requests received by the Commission; - the proportion of requests from members of the public or people who do not say that they are acting on behalf of any particular organisation has risen sharply from an average of 10% to over 30%. This is explained in part by the high number of requests submitted by e-mail, where only the requester's name is shown; - the interest shown by law firms in accessing documents has continued and remains steady at around 22-23%. Although, in percentage terms, the interest shown by law firms has remained stable, the numbers of requests from this sector has actually doubled; - in relative, requests from the academic sector have fallen sharply from 22% to 12%, which nevertheless corresponds to a slight increase in absolute figures; - many requests for access submitted to the Commission are very extensive and vague. For example, a large number of requests relate to accessing all documents on a particular subject. Requests of this kind can cover hundreds of documents. They tend to be submitted by researchers, students and law firms.?

Public access to European Parliament, Council and Commission documents

COMMUNITY MEASURE : Decision 2003/603/EC of the European Economic and Social Committee on public access to European Economic and Social Committee (EESC) documents. CONTENT : According to Regulation 1049/2001/EC, the European Parliament, Council and Commission request the other institutions to adopt internal rules regarding public access to documents, taking into account the principles and limits set out in that Regulation. This Decision stipulates that any citizens of the Union and any natural or legal person residing or having its registered office in a Member State shall have a right of access to EESC, subject to the principles, conditions and limits set out in Regulation 1049/2001/EC and the specific provisions laid down in this Decision. In brief, these are as follows : - a public register of EESC documents will be established ; - the register thus created will contain opinions adopted by the EESC and draft opinions adopted by the sections, as well as the documents listed in the Annex. It may also contain references to documents drawn up or received by the institution as from the date from which Regulation 1049/2001/EC is applicable; - the full texts of documents shall be published on the Committee's Internet site subject to data protection provisions; - any document drawn up by the Committee shall be entered in the register as soon as possible. The General Affairs directorate will adopt the necessary internal implementing measures; - documents drawn up under the consultative procedure or for the purpose of other Committee business shall be entered in the register as soon as they have been submitted or made public, under the responsibility of the body or directorate which is responsible for the document; - any document received by the Committee from a third party may be entered on the register. There are special rules for sensitive documents; - all documents drawn up or received by the Committee under the consultative procedure must be accessible to citizens in electronic form, as far as possible; - documents drawn up or received by the Committee outside the consultative procedure shall, as far as possible, be directly accessible to citizens through the register; - where entry of a document in the register does not permit direct access to the full text, either because the document is not available in electronic form or because the exceptions provided for are applicable, the applicant may apply for access to the document in writing, or using the electronic form available on the website. The Committee may either grant access to the document or give the reasons for its total or partial refusal in writing. Technical conditions concerning the delivery of documents and the cost are also stipulated. Within a time limit of 15 working days from the registration of the application, the service responsible for the register shall grant access to the requested document and shall supply it within the same time limit. Where the Committee is unable to grant access to the requested document, it shall notify the applicant in writing of the grounds for its total or partial refusal and inform the applicant of his or her right to make a confirmatory application. Lastly, concerning the issue of documents and cost of the reply, the Decision states that documents are to be supplied in the form of a copy, or in electronic format, with full regard to the applicant's preference. If a document has already been released by the Committee or by another institution and is easily accessible, the Committee may facilitate access to the document by informing the applicant how to obtain the requested document. The cost of producing and sending copies may be charged to the applicant. This charge may not exceed the real cost of the operation. Consultation on

the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge. ENTRY INTO FORCE : This Decision repeals the ESCS Bureau Decision 27 September 1997 on public access to Committee documents. It enters into force on 14/08/03. The Decision on establishing the register of documents will take effect from 01/08/03.?

Public access to European Parliament, Council and Commission documents

The purpose of this report is to attempt to produce an initial qualitative evaluation of the application of Regulation 1049/2001 in the light of the principles of the transparency policy pursued by the Community institutions. It emerges from the annual reports that the number of applications doubled in 2002 compared with the previous year, during which the institutions applied the old system of access to their documents. The provisional figures for 2003 indicate another considerable increase in demand. Despite this growing number of documents requested, the rate of positive responses remains stable. In addition, the number of documents made directly accessible is constantly growing. There is thus a substantial increase in the number of documents made available to the general public. This report intends to answer this question using a detailed analysis of the way in which the three institutions concerned applied each of the provisions in Regulation 1049/2001. The analysis is essentially based on the practical experience of the relevant departments within the three bodies. It is still too early to assess the Regulation in the light of case law and the decisions of the European Ombudsman. Two years after the implementation of the Regulation, only one ruling had been issued by the Court of First Instance and eleven complaints had been resolved by the Ombudsman. The report evaluates to what extent the Regulation has permitted the achievement of the objective of granting the widest possible access to the documents of the Community institutions and of thus ensuring better information and increased participation of citizens in the decision-making process. - The report observes that while the right of access does not extend to the documents of all the Community bodies, it does cover a growing number of institutions and bodies. Regulation 1049/2001 now applies to the agencies, while institutions and bodies not covered by Article 255 of the Treaty, with the exception of the Court of Justice, have all adopted rules on access on a voluntary basis. The Regulation on the application to the EC institutions and bodies of the provisions in the Convention of Aarhus will extend the right of access to the environmental information held by all the Community institutions and bodies. Lastly, the draft Constitutional Treaty drawn up by the Convention provides for a right of access "to documents of the Union institutions, bodies and agencies". Thus there is a real prospect that the right of access to documents will apply generally in all Union organisations. However, this development will not put an end to the distinction between Union citizens and residents on the one hand, and, on the other, citizens of third countries not residing in a Member State or legal persons not established on Community territory. The Convention of Aarhus does not make this distinction, but the draft Constitution does. In a bid to ensure both equity and clarity, it would be desirable to abolish this difference of treatment on a voluntary basis. - the report also states that the scope should be clarified : the Regulation provides a very broad definition of the concept of "document" but does not specify the contours. It does not contain any criteria relating to the degree of officialisation of documents, with informal messages thus having the same status as official records. Moreover, the Regulation does not state either what the concept of institution covers. Parliament clarified the concept of "Parliament document" in its rules of procedures, thus delimiting the scope of the Regulation as regards documents from political groups and individual members not holding a mandate from the institution. - concerning the application of the system of exceptions : the exceptions correspond to the usual limits on the right of access as featured in most national laws. In practice, it turns out that only a few exceptions were invoked regularly. They concerned protection of: public security and international relations, invoked by the Council in the context of activities under the second and third pillars; court proceedings and legal advice; the internal decision-making process; inspections, investigations and audits, invoked only by the Commission. The global rate of positive replies for 2002 ranged from 70% to 98%. The rates of positive replies vary from one institution to another, but the figures are not easy to compare. Since the percentages of positive replies for the Council and Commission concern only documents that were not yet accessible, this means that a considerable number of additional documents have been placed in the public domain because of the Regulation. The application of the exception relating to the protection of "personal data" is a delicate matter because of the interlinking of Regulation 1049/2001 and the Regulation on the protection of personal data (45/2001). The decision-making process is not protected in the same way as the other interests covered by Article 4 of the Regulation. The requirement of "seriously undermining" the process appears to be excessive. In addition, environmental protection is not a reason for refusing access under Regulation 1049/2001. Given the forthcoming application of the Convention of Aarhus to the Community institutions, a specific exception should be made, such as the one in the Convention. More generally, in the light of experience and in a bid to ensure clarity, it would be a good thing to provide for specific exceptions covering certain well-defined cases. - workload generated by the practical implementation of the Regulation : it is important that the institutions allocate the resources needed to ensure the proper implementation of the Regulation on access to documents. The very principles of access to documents and of transparency will be undermined if the appropriate resources are not made available. It is not simply a question of allocating the necessary human and material resources, but also of ensuring the training and information of the persons concerned. Access to documents is a horizontal activity which involves a large number of people working at the institutions. Moreover, the Regulation does not explicitly address the problem of very long, repetitive, unfair or unreasonable applications. While it might be rather dangerous to define this type of application, it would be advisable to prevent the disproportionate burden generated by certain applications from penalising citizens submitting applications in good faith for access to documents because of a genuine need for information. Since the possibility of invoicing copying and postal charges is only a limited disincentive, the concept of proportionality, already enshrined in case law, should be refined when it comes to granting partial access by removing parts of documents to which the exceptions do not apply. - place of the Regulation in public information policy : the objective of Regulation 1049/2001 is to make the work of the institutions more transparent and hence to bring them closer to the public. Experience tends to confirm, however, that specialists in European affairs were the main people to benefit, and that it cannot therefore be regarded as a special instrument of information for the public. Looking for a Community institution's unpublished documents implies, in fact, that the applicant is familiar with the Union's powers and activities. Consequently, there is still a lot of work to be done as regards informing the general public, in two ways: people must be kept more abreast of the Union's activities by means of an active information policy, and they must be aware of their right to obtain access to the documents of the institutions. - recourse to the Regulation with a view to exercising specific rights of access : the objective of Regulation 1049/2001 is to make documents accessible to the public, disclosure of which will not harm the public interest or specific private interests. It is not intended to determine the conditions under which certain people can obtain special access to documents that cannot be disclosed to the general public. However, experience has shown, particularly at the Commission, that the Regulation has sometimes been invoked to obtain such special access. In conclusion, Regulation 1049/2001 has been applied for two years and no problems have arisen during implementation that would justify amending legislation for the time being. However, further experience is needed and significant case law must be developed before considering any amendment of texts regulating public access to documents. Given the analysis of the application of the Regulation and the conclusions which it is possible to draw at this juncture, an initial series of actions could be carried out in the short term to consolidate the public access right and to incorporate it further into a public information policy. The report suggests the following short-term actions : - recommendation to adapt rules of access to those of Regulation 1049/2001; - recommendation to extend the right of access to all natural and legal persons, irrespective of nationality or residence; - development of the registers and of direct access to documents; - development of other information tools; - strengthening interinstitutional cooperation; - appropriate training for officials responsible for access to the documents of the agencies and other institutions. Lastly, the report

highlights longer-term actions such as taking stock of all the sectors in which specific rules on access to files for persons with special interests are lacking or insufficient. The shortcomings in these measures would subsequently have to be remedied.?

Public access to European Parliament, Council and Commission documents

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Public access to European Parliament, Council and Commission documents

LEGISLATIVE ACT : Decision of the European Central Bank ECB/2004/3 on public access to European Central Bank documents. CONTENT : This Decision defines the conditions and limits according to which the ECB shall give public access to ECB documents and to promote good administrative practice on public access to such documents. The decision affirms the right of access for EU citizens to ECB documents subject to the conditions and limits defined in this Decision. The Decision safeguards the confidentiality of certain matters specific to the performance of the ECB's tasks. In order to ensure the effectiveness of its decision-making process, including its internal consultations and preparations, the proceedings of the meetings of the ECB's decision-making bodies are confidential, unless the relevant body decides to make the outcome of its deliberations public. Certain public and private interests are also protected by way of exceptions. Furthermore, the ECB will protect the integrity of euro banknotes as a means of payment including the security features against counterfeiting, the technical production specifications, the physical security of stocks and the transportation of euro banknotes. The exceptions will only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years unless specifically provided otherwise by the ECB's Governing Council. In the case of documents covered by the exceptions relating to privacy or commercial interests, the exceptions may continue to apply after this period. With regard to the National Central Banks, when NCBs handle requests for ECB documents that are in their possession, they will consult the ECB in order to ensure the full application of this Decision unless it is clear whether or not the document may be disclosed. In order to bring about greater openness, the ECB will grant access not only to documents drawn up by it, but also to documents received by it while at the same time preserving the right for the third parties concerned to express their positions with regard to access to documents originating from those parties. The ECB will apply a two-stage procedure, involving the Processing of initial applications and the processing of confirmatory applications This Decision repeals Decision ECB/1998/12. ENTRY INTO FORCE : 19/03/04.

Public access to European Parliament, Council and Commission documents

ACT : Decision of the Translation Centre for the bodies of the European Union on the implementation of Regulation 1049/2001/EC of the European Parliament and of the Council regarding public access to documents.

CONTENT : Article 18a of Regulation 2965/94/EC provides that Regulation 1049/2001/EC of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents shall also apply to documents held by the Centre and it also provides that the Management Board shall adopt the practical arrangements for implementing Regulation 1049/2001/EC. This is the purpose of the present Decision.

ENTRY INTO FORCE : 01/04/2004.

Public access to European Parliament, Council and Commission documents

The Commission has presented a report concerning the application in 2003 of Regulation 1049/2001/EC regarding public access to European Parliament, Council and Commission documents. During 2003, each of the three institutions published an initial annual report concerning the application of the Regulation. The present report starts by outlining the measures introduced or finalised in 2003 in order to ensure that the Regulation is applied in full. The first three chapters cover various regulatory amendments in succession, the development of registers and the results of interinstitutional cooperation. A fourth chapter examines requests for access, the percentage of requests refused and the reasons for these refusals. The fifth chapter deals with the complaints submitted to the Ombudsman and the sixth gives a description of the state of case law. The statistics on the processing of requests for access are included in the Annex. The tables show the figures for the two years in which the Regulation has been in force. Finally, it should be borne in mind that the statistics relate only to requests for access to unpublished documents and do not cover either orders for public documents or requests for information.?

Public access to European Parliament, Council and Commission documents

This report, which covers 2004, is the third report presented by the Commission under Article 17(1) of Regulation 1049/2001/EC. The continuing increase in the number of requests for access since the Regulation was adopted was repeated last year:

- between 2002 and 2003, the number of initial requests rose from 991 to 1 523, i.e. an increase of 53.7%;
- in 2004, 2600 initial requests were recorded, i.e. 1077 more than in 2003, or an increase of 70.72%.

The increase in confirmatory requests was less marked:

- between 2002 and 2003, the number rose from 96 to 143, i.e. an increase of 48.96%;
- in 2004, the number of confirmatory applications rose to 162, i.e. 19 more than in 2003, or an increase of 13.29%.

The breakdown by area of interest remained more or less the same as in previous years. Competition, customs, indirect taxation, the internal

market and the environment continue to rouse most interest, accounting for approximately 40% of requests.

More than a quarter of the requests (26.42%) came from persons or bodies established in Belgium, because of the number of multinational companies, law firms and associations or NGOs operating at European level with an office in Brussels. Moreover, the majority of requests (over half) came from Germany, Italy, France, the

United Kingdom, Spain and the Netherlands. The percentage from the new Member States remains low (4.31%).

Following completion of the process for handling requests, the rate of positive replies stands at 70% (compared with 72.82% in 2003); in 65.45% of cases the whole document was disclosed, and in 4.58% of cases partial access was granted.

The main reasons for confirming refusal of access were:

- protection of the purpose of investigations (26.32 %);
- protection of the decision-making process (21.75 %).

It should be pointed out that the protection of commercial interests was the basis of a significantly bigger number of refusals at the confirmatory stage than in 2003, up from 11.87% to 15.79%. This exception was clearly invoked more at the confirmatory stage than at the initial stage (8.33%).

In conclusion, the growing public interest in accessing unpublished Commission documents was confirmed in 2004. As in previous years, applications were made largely by companies, NGOs, law firms and various interest groups (over 40%). The general picture which emerges from the analysis of requests is that a significant

proportion of them relate to Commission activities regarding the monitoring of Community law. In many cases, the purpose is to obtain documents which could support the requester's position in connection with a complaint, relating for example to a presumed infringement of Community law, or an administrative or legal appeal.

These requests generally involve a substantial volume of documents and examining them entails considerable administrative work. The reasons most frequently given for refusal are the protection of the following

interests: purpose of investigations, commercial interests of companies and the Commission's decision-making process. This last exception is invoked more to protect the taking of individual decisions than the legislative process, where the trend is to make more and more documents public without waiting for requests for access.

The number of complaints presented to the Ombudsman under Regulation 1049/2001 remains stable despite the increase in the number of requests for access. In most cases, either the Ombudsman concluded that there had been no maladministration or the case was settled to the satisfaction of the complainant.

The Court of First Instance confirmed its interpretation of the exception relating to the right of the Member States to oppose disclosure of documents transmitted by them to the Commission.

Public access to European Parliament, Council and Commission documents

The European Commission has adopted a green paper on with a view to opening a public consultation on Regulation No (EC) 1049/2001 on public access to documents held by institutions of the European Community. The Regulation, which became applicable on 3 December 2001, has led to a steep and sustained increase in requests for access to documents, as the annual reports published by the three institutions show. In January 2004 the Commission published a report on the implementation of the Regulation, which provided a first overview of how the EU's regime for public access to documents works in practice. Three years have passed since this first evaluation, during which more experience has been gained, a body of case law has developed and a number of complaints have been settled by the European Ombudsman.

Against this background, the report on the implementation of the Regulation, published on 30 January 2004 concluded that the rules on public access had worked in a very satisfactory way. Recent experience tends to confirm the findings of this report, in particular as concerns access in relation to legislative procedures and the expansion of proactive information provision by the institutions. However, there is scope for greater clarity as concerns the application of the general right of access when applied simultaneously with balancing interests arising in relation to case related work, such as data protection or specific rights of access.

Furthermore, the European Parliament and the Council have adopted a new Regulation applying the Convention of Århus to the institutions and bodies of the European Community, which will have an impact on access to documents containing environmental information. For these reasons, the time seems right to assess whether the Regulation needs to be amended. Therefore, when the Commission decided, on 9 November 2005, to launch a 'European Transparency Initiative', it included a review of Regulation (EC) No 1049/2001 as part of this drive to create more openness. In a Resolution adopted on 4 April 2006, the European Parliament called on the Commission to come forward with proposals for amending the Regulation.

In the present consultation document, the Commission first takes stock of the existing rules governing the public right of access to documents and their implementation, then outlines some options for improving the legislation and practical measures aimed at offering better access to documents of the institutions.

The public is invited to comment on the regime for obtaining access to documents of the European institutions and also to react to the options set out in this Paper. Through the questionnaire, the Commission is seeking the views of citizens, including civil society organisations, economic operators, public authorities and other organisations with an interest in European affairs.

The public consultation starts with the publication of this Green Paper and will last for three months. The Commission intends to analyse carefully the responses received, and will publish a report summarising the outcome of this public consultation and outlining follow-up action. On the basis of this report, the Commission will submit proposals for amending Regulation (EC) No 1049/2001.

The expected time schedule is as follows:

? Public consultation: from mid April to mid July 2007;

? Report on the outcome: September 2007;

? Proposals for amending the Regulation: October 2007.

The Green Paper is composed of two parts: the application of the existing rules on public access and options for improving the access rules.

It is appropriate to consider amendments to the regime for public access to documents, with a view to: (i) improving access to registers and direct access to documents; (ii) better informing the public at large on the activities of the European institutions; (iii) clarifying the legal framework; (iv) striking the right balance between the public's right to know and the protection of legitimate public and private interests.

Public access to European Parliament, Council and Commission documents

The European Commission presents its fourth report for the year 2005 under Article 17(1) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The report concludes that growing public interest in access to unpublished Commission documents was confirmed in 2005.

Initial applications registered in 2005 totalled 3 173, an increase of 573, or 22.1%, on the number received in 2004. In 2003 and 2004 the increases had been 53.7% and 70.72% respectively. The number of confirmatory applications remained more or less constant at 167 in 2005 as against 162 in 2004.

There was little change in the break-down of applications by area of interest. Competition, customs duties and indirect taxation, the single market and the environment accounted for almost 35% of applications. However, interest grew in enterprise policy, transport and energy, regional policy and cooperation on justice.

The geographical break-down of applications also remained constant. Almost a quarter of the applications (22.63%) came from persons of bodies established in Belgium because of the number of enterprises, law firms, associations and NGOs operating at European level. Apart from that, the bulk of the applications came from the most highly-populated Member States, i.e. Germany, Italy, France, the United Kingdom, Spain and the Netherlands, which together accounted for more than half the applications. Even in 2005, the share of applications from the new Member States remained modest at 4.58%.

Lastly, as in previous years, a large proportion of the applications (more than 40%) came from enterprises, NGOs, law firms and a variety of interest groups. The overall picture that emerges from analysis of access applications is that a large proportion of them relate to Commission monitoring of the application of Community law. In a very large number of cases access was applied for in order to obtain documents likely to support the applicant's position in a complaint concerning, for example, an alleged infringement of Community law or an administrative or judicial action. These applications generally relate to large volumes of documents, analysis of which gives rise to a substantial administrative burden.

The most frequent grounds for refusal are protection of the following interests: the purpose of investigations, the commercial interests of enterprises and the Commission's decision-making process. The latter exception is cited more to protect decision-making on individual issues than the legislative process. In the legislative field, more and more documents are made available to the public directly, without waiting for applications for access.

In 2005 the Ombudsman closed nine files on complaints against the Commission for refusing to disclose documents.

The number of complaints to the Ombudsman concerning application of Regulation (EC) No 1049/2001 remained stable in 2005 despite the increase in applications for access.

The Court of First Instance confirmed its earlier rulings on two points:

- Member States are entitled to oppose disclosure of documents which they have sent to an institution and
- there is a requirement in principle for concrete, individual assessment of documents to which access is requested.

The Court also clarified that Regulation (EC) No 1049/2001 concerns public access to documents and the particular interest that may be cited by an applicant is not relevant to evaluation of the validity of a decision to refuse access.

The other main issues dealt with in the report are as follows:

Transparency policy: in 2005 the European Transparency Initiative was launched, in line with the Commission's strategic objectives for 2005-2009. It comprised three sets of measures:

- improving access to information: i) publishing information on the final beneficiaries of EU funds; ii) achieving better synergy between databases to expand the scope of the register;
- publishing a green paper in 2006 to launch debate on: i) a legal obligation for Member States to publish the information about the end beneficiaries of Community funds under shared management; ii) the activities of interest groups; iii) the Commission's consultation practices;
- launching inter-institutional debate on the legislation regarding public access to documents, based on the Report from the Commission on the implementation of the principles in EC Regulation No 1049/2001 and on public consultation concerning possible revision of the Regulation.

Online registers and sites: at the end of 2005, the register of Commission documents recorded 61 085 documents.

Public access to European Parliament, Council and Commission documents

This is the Commission's fifth report regarding public access to European Parliament, Council and Commission documents and covers the year 2006. To recall, provisions in Regulation (EC) No 1049/2001 provide that each institution must publish an annual report stating the number of cases in which it has refused to grant access to documents and the reasons for such refusals. The report must also specify the

number of sensitive documents for which references have not been included in the public register of documents.

The main findings of the report are as follows:

Initial applications: There was, once again, a rise in the number of initial application. 3841 initial applications were registered by the departments ? 445 more than in 2005. The number of confirmatory applications fell appreciably ? 140 such applications were registered in 2006 compared to 233 in 2005. There was little change in the breakdown of application by area of interest ? other than that the number of applications concerning cooperation in judicial matters nearly doubled. Competition, cooperation in judicial matters, the environment, the internal market and transport and energy accounted for nearly 40% of all applications. The breakdown of applications by social and occupational categories reveals a significant increase in applications from the academic world, accounting for over 30% of the total.

Geographical break-down of applications: Over 20% of applications came from persons or bodies established in Belgium ? largely due to the high number of enterprises, law firms, associations and NGO?s operating at a European level. Other than that, the bulk of applications stemmed from the most highly populated Member States namely, Germany, France, Italy, the United Kingdom, the Netherlands and Spain, which together amounted to just over half of all applications. The share of applications from the new Member States remained modest, in spite of a slight increase for most of them.

Exceptions to the rights of access: The percentage of initial applications receiving a positive response increased. In 73.83% of cases the documents were disclosed in full, while in 2.94% of cases partial access was granted. The percentage of decisions confirming the initial decision increased slightly (69.29% of cases compared with 68.24% in 2005). The percentage of cases in which applications were granted in full after initial refusal also increased slightly (8.57% compared to 7.30% in 2005). The percentage of cases in which partial access was granted after initial refusal, on the other hand, fell slightly (22.12% compared to 24.46% in 2005). The two main reasons for refusing an initial application are:

- To protect inspections, investigations and audits. This, though, is significantly down on 2005 figures (30.72% of refusals compared to 41.80% in 2005).
- Safeguarding the decision-making process.

A further reason for refusing access to documents concerned the protection of commercial interests.

European Ombudsman: In 2006 the Ombudsman closed seven files on complaints against the Commission for refusing to disclose documents. In five of these cases the Ombudsman closed the case with a critical remark.

Court of First Instance: The Court of First Instance handed down two judgments on cases relating to Commission decisions completely or partially refusing access to documents under the Regulation.

Conclusions: Most applications concern requests for monitoring the application of Community law. A large number of applications relate to an alleged infringement of Community law. The report points out that, from a legislative point of view, more and more documents are now publicly available ? mostly through the Commission WebPages. Indeed, the number of complaints forwarded to the European Ombudsman fell sharply in 2006 from fifteen in 2005 to 5 in 2006.

Public access to European Parliament, Council and Commission documents

The Commission presents a report on the application in 2007 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The main findings are as follows:

Access applications: the constant increase in the number of initial applications since the Regulation was adopted was again observed in 2007, when 4196 initial applications were registered

by departments, 355 more than in 2006. The number of confirmatory applications virtually doubled; 273 such applications were registered in 2007 as against 140 in 2006. With regard to the breakdown of applications by area of interest, cooperation in judicial matters, transport and energy, competition, the internal market, the environment and enterprise policy accounted for nearly 40% of applications. The breakdown of applications by social and occupational categories confirmed the significance of applications from the academic world, which remained the largest single category, accounting for more than 30% of the total.

Exceptions to the right of access: the percentage of initial applications receiving positive responses remained roughly the same as the previous year. In 72.71% of cases (compared with 73.83% in 2006) the documents were disclosed in full, while in 3.88% of cases (compared with 2.94% in 2006) partial access was granted. The percentage of decisions confirming the initial decision decreased slightly (66.30% of cases compared with 69.29% in 2006). The percentage of cases in which applications were granted in full after initial refusal virtually doubled (15.38 % as against 8.57 % in 2006). The percentage of cases in which partial access was granted after initial refusal, on the other hand, fell slightly (18.32 %, as against 22.14 % in 2006).

The two main reasons for refusing an initial application continued to be: i) protecting the purpose of inspections, investigations and audits; ii) protecting the Commission's decision-making process. Protection of international relations and protection of commercial interests were cited in 10.98% (against 7.06% in 2006) and 10.79% (against 8.94% in 2006) of refusals respectively, a marked increase.

Ombudsman: in 2007 the Ombudsman closed the following sixteen complaints against the Commission for refusing to disclose documents. The Ombudsman received thirteen complaints concerning refusal to disclose documents.

Court action: the Court of First Instance handed down two judgments on cases relating to Commission decisions completely or partially refusing access to documents under Regulation (EC) No 1049/2001. Fifteen new actions, including six appeals, against Commission decisions under Regulation 1049/2001 were submitted in 2007.

Conclusion: as in past years, the overall picture that emerges from analysis of access applications is that a large proportion of them relate to Commission monitoring of the application of Community law. In a very large number of cases access was applied for in order to obtain

documents likely to support the applicant's position in a complaint concerning, for example, an alleged infringement of Community law or an administrative or judicial action. These applications generally relate to large volumes of documents, analysis of which gives rise to a substantial administrative burden.

It should also be noted that the exception relating to protection of the Commission's decision-making process is cited mainly to protect decision-making on individual issues. In the legislative field, more and more documents are made available to the public directly, without waiting for access applications. The Commission's Directorates-General have developed their websites on specific policies and have used them to make a large number of documents publicly available.

The exception concerning the protection of commercial interests, which have shown a marked increase, is mainly cited in connection with requests for access to competition policy documents.

These trends, which have become more marked over the years, guided the Commission's thinking when it drew up the proposed amendments to the Regulation.

Public access to European Parliament, Council and Commission documents

This report from the Commission, which covers 2008, was drawn up pursuant to Article 17(1) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The Commission's conclusions concentrate on the following issues:

- 1) Analysis of access applications: the constant increase in the number of initial applications since the Regulation was adopted was again observed in 2008, with 1001 applications more than in 2007, a 25% increase. The number of confirmatory applications fell appreciably: 156 such applications were registered in 2008 as against 273 in 2007. With regard to the breakdown of applications by area of interest, transport and energy, the internal market, competition, cooperation in judicial matters, the environment and enterprise policy accounted for nearly 40% of applications. The geographical breakdown of applications remained constant. Almost 20% of applications came from persons or bodies established in Belgium because of the number of enterprises, law firms, associations and NGOs operating at European level. Apart from that, the bulk of the applications came from the most highly-populated Member States, i.e. Germany, Italy, France, the United Kingdom, Spain and the Netherlands, which together accounted for half the applications (49.86%). The share of applications from the new Member States remained modest.
- 2) Characteristics of requests and reasons for refusals: the Commission notes that, as in past years, a large proportion of access applications relate to Commission monitoring of the application of Community law. In a very large number of cases, access was applied for in order to obtain documents likely to support the applicant's position in a complaint concerning, for example, an alleged infringement of Community law, or in an administrative or judicial action concerning, for example, a Commission decision on competition policy. These applications generally relate to large volumes of documents, analysis of which gives rise to a substantial administrative burden. Moreover, it should be noted that the exception relating to protection of the Commission's decision-making process is cited mainly to protect decision-making on individual issues. In the legislative field, more and more documents are made available to the public directly, without waiting for access applications. The Commission's Directorates-General have developed their websites on specific policies and have used them to make a large number of documents publicly available. The exception concerning the protection of commercial interests is mainly cited in connection with requests for access to competition policy documents. These trends, which have become more marked over the years, guided the Commission's thinking when it drew up the proposed amendments to the Regulation.
- 3) Developments in case-law: the Court of First Instance confirmed its earlier rulings on a number of points:
 - there is a requirement in principle for concrete, individual assessment of documents to which access is requested;
 - the specific interest that an applicant may claim is not relevant for assessing the validity of a decision refusing access;
 - the investigation/audit exception applies throughout the investigation/audit proceedings.

The Court also clarified other points:

- the Ombudsman procedure is distinct from the judicial procedure, these being alternative procedures;
- institutions must be allowed to protect their internal consultations and deliberations, notably against targeted external pressure, where it is necessary in the public interest in order to safeguard their ability to carry out their tasks in particular when they are exercising their administrative decision-making powers;
- nevertheless, they had to establish the reality of such external pressure with certainty and show that there was a reasonably foreseeable risk that the decision to be taken would be substantially affected, particularly in the legislative field;
- implicit refusal was still refusal without stating reasons, and could therefore be annulled on those grounds alone.

Public access to European Parliament, Council and Commission documents

This report, which covers 2009, was drawn up pursuant to Article 17(1) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Analysis of access applications: the number of initial applications remained stable in 2009 (5 055 applications compared with 5 197 in 2008). The number of confirmatory applications fell slightly: 134 in 2009 as against 156 in 2008. A large number of applications concerned entire files relating to various administrative procedures. With regard to the breakdown of applications by area of interest, the environment, transport and energy, cooperation in judicial matters, the internal market and competition accounted for nearly 40% of applications.

The breakdown of applications by socio-professional profile confirmed the significance of applications from the academic world, which

remained the largest single category, albeit smaller than in 2008 (21.29% of applications compared with 31.03% in 2008).

Lastly, the geographical breakdown of applications remained constant. Almost 20% of applications came from persons or bodies established in Belgium because of the number of enterprises, law firms, associations and NGOs operating at European level. Apart from that, the bulk of the applications came from the most highly-populated Member States, i.e. Germany, France, Italy, Spain, the United Kingdom and the Netherlands, which together accounted for almost half the applications (49.75%). The share of applications from the new Member States remained modest.

Application of exceptions to the right of access: the percentage of initial applications receiving positive responses was higher than in 2008. In 84.23% of cases (compared with 82.68% in 2008) the documents were disclosed in full, while in 4.11% of cases (compared with 3.33% in 2008) partial access was granted.

The percentage of decisions confirming the initial position ? which had already fallen considerably in 2008 ? again fell significantly in 2009 (by over 25%, from 48.08% of the total in 2008 to 22.50% in 2009).

The percentage of cases in which applications were granted in full after an initial refusal virtually tripled (50% as against just 18.59% in 2008). The percentage of cases in which partial access was granted after an initial refusal fell slightly (27.50%, as against 33.33% in 2008).

The two main reasons for refusing an initial application continued to be:

- protecting the purpose of inspections, investigations and audits, with a slight increase on 2008 (27.61% of refusals compared with 26.63% in 2008);
- protecting the Commission's decision-making process, with a percentage of 17.80% for cases where the decision had still to be taken and 7.81% for those concerning opinions for internal use, totalling 25.61% of refusals (compared with a total of 28.72% in 2008).

The percentage of refusals based on the protection of commercial interests remained significant: 13.99% of refusals (14.4% in 2008).

The main grounds for confirming refusal of access were:

- protection of the purpose of investigations (25.91% compared with 27.85% in 2008);
- protection of commercial interests (17.52% compared with 24.89% in 2008);
- protecting the Commission's decision-making process, with a percentage of 12.77% for cases where the decision had still to be taken and 13.87% for those concerning opinions for internal use, totalling 26.64% of refusals (compared with a total of 29.54% in 2008).

Refusal based on the outright opposition of the Member State is no longer used since the Court⁵ ruled that Article 4(5) of the Regulation does not confer on the Member State a general and unconditional right of veto so that it could in a discretionary manner oppose the disclosure of documents originating from it. The Member State is required to state the reasons for its objection with reference to the exceptions provided for in the Regulation; only these exceptions can constitute grounds for refusal.

Court action: the Court of First Instance handed down two judgments on cases relating to Commission decisions partially refusing access to documents under Regulation (EC) No 1049/2001. These were the judgments in Cases T-121/05 and T-166/05, *Borax Europe Ltd v Commission*. In these judgments, the Court set aside the Commission decisions refusing access to various documents relating to a meeting of a group of scientific experts specialised in the toxic effects of chemicals on human reproduction.

Conclusions: as in past years, the overall picture that emerges from analysis of access applications is that a large proportion of them relate to Commission monitoring of the application of Community law. In a very large number of cases, access was requested in order to obtain documents likely to support the applicant's position in a complaint concerning, for example, an alleged infringement of Community law, or in an administrative or judicial action concerning, for example, a Commission decision on competition policy. These applications generally relate to large volumes of documents, analysis of which gives rise to a substantial administrative burden.

It should also be noted that the exception relating to protection of the Commission's decision-making process is cited mainly to protect decision-making on individual issues. In the legislative field, more and more documents are made available to the public directly, without waiting for access applications. The Commission's DGs have developed their websites on specific policies and have used them to make a large number of documents publicly available. The exception concerning the protection of commercial interests is mainly cited in connection with requests for access to competition policy documents and tender procedures.

The Court of First Instance has confirmed its case-law on the following points:

- an excessively general reason for refusal leading to the exclusion of a whole category of documents is, in itself, insufficient to justify the application of an exception;
- the institution must prove that there is a risk of an adverse effect in the case in question, and this risk must be reasonably foreseeable and not simply hypothetical;
- with respect to "legislative" activities, the case-law of the Court of First Instance is consistent with the judgment of the Court of Justice in the *Turco* case.

Public access to European Parliament, Council and Commission documents

The Commission presents a report on the application of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, covering the year 2010 and based on statistical data which reflect the number of applications and not of documents requested.

Revision of the Regulation: the [proposal for a recast of the Regulation](#), submitted by the Commission on 30 April 2008, is still at first reading. The Parliament voted a report with amendments on 11 March 2009 but postponed the vote on the legislative resolution. After the June 2009 elections, the new Parliament has resumed work on the Commission proposal. The committees for Constitutional Affairs and for Petitions adopted their opinions on 30 November 2010 and 1 December 2010 respectively. The Civil Liberties committee has not yet voted on a new draft report. In the Council, the proposal has been examined at the working group level.

Following the entry into force of the Treaty of Lisbon on 1 December 2009, the Commission has submitted on 21 March 2011 a [new proposal](#) with a view to adapting Regulation 1049/2001 to the requirements of the Treaty of Lisbon. This proposal aims at extending the institutional

scope of the Regulation to all the EU institutions, bodies, offices and agencies, with some restrictions as regards the European Court of Justice, the European Central Bank and the European Investment Bank.

Analysis of access applications: 2010 has seen a significant increase of the number of initial applications made under the Regulation (6127 applications compared with 5055 in 2009, i.e. 21% more). The number of substantive decisions on confirmatory applications issued during 2010 remained stable: 122 decisions of substance in 2010 against 120 in 2009. The total number of responses to confirmatory applications was 152. The additional 30 cases have been closed without a formal decision under Regulation. They concern either applications which were devoid of purpose, or requests which were handled under another, more appropriate legal basis, e.g. under Regulation (EC) No 45/2001 on personal data protection as regards requests for access to the applicant's own personal data. The number of confirmatory applications received increased from 140 in 2009 to 181 in 2010. The difference between the number of confirmatory applications received and the number of decisions issued is reflected in the number of cases pending at the end of the year (68).

The report goes on to make the following points:

- Competition policy comes first on the list of domains of interest with 9.07% of initial applications, followed closely by other major EU policy areas, such as home and justice affairs, transport and energy, the internal market, taxation and customs union, health and consumer protection, environment and enterprise policy;
- the main categories of applicants remain the academic world, accounting for 23.24% of initial applications, law firms with 10.69% and civil society with 8.18% of the total number of applications. For 32.68% of the applications, the socio-professional profile is undefined;
- the geographical breakdown of initial applications also remained very similar to previous years. However, whereas for obvious reasons the largest proportion of applications, namely 17.95%, came from persons or bodies established in Belgium, an almost equal proportion of applications (16.62%) originated from Germany. None of the other Member States, exceeded 10% of applications, the largest numbers coming from the highly-populated Member States, i.e. France, Italy, Spain, the United Kingdom and the Netherlands, which together accounted for 36.45% of the applications. The share of applications from the new Member States slightly increased with 4.23% of applications originating from the Czech Republic and 2.76% from Poland.

Application of exceptions to the right of access: the percentage of initial applications which were fully granted remained in 2010 above 80% (82.16%), while partial access was granted in 5.37% of initial applications. In 82.16% of cases (compared with 84.23% in 2009) the documents were disclosed in full, while in 5.37% of cases (compared with 4.11% in 2009) partial access was granted. This means that as in 2009, the percentage of applications that were refused in the first instance in full (for various reasons) stabilised around 12%. After a decrease in 2009, the percentage of decisions confirming the initial position show a return to a level comparable to the one of 2008 (50% in 2010, against 48.08% in 2008 and only 22.50% in 2009). Also the percentage of cases in which access was granted in full after an initial refusal returned to a level similar to 2008 (15.57% in 2010 against 50% in 2009 and 18.59% in 2008). On the other hand, the percentage of cases in which partial access was granted after an initial refusal, increased noticeably (34.43% in 2010, as against 27.50% in 2009).

The two main reasons for refusing an initial application continued to be:

- the protection of the purpose of inspections, investigations and audits, with a slight decrease compared to 2009 (26.63% of refusals instead of 27.61% in 2009);
- the protection of the Commission's decision-making process with a percentage of 16.80% for cases where the decision had still to be taken and 9.66% for those concerning opinions for internal use, totalling 26.42% of refusals (compared with a total of 25.61% in 2009). The percentage of refusals based on the protection of commercial interests slightly decreased in comparison with the previous year amounting to 11.84% (instead of 13.99% in 2009).

The main grounds for confirming a refusal of access were:

- the protection of the purpose of investigations (32% compared with 25.91% in 2009);
- the protection of commercial interests (16.67% compared with 17.52% in 2009);
- the protection of the Commission's decision-making process, with a percentage of 11.33% for cases where the decision had still to be taken and 8% for those concerning opinions for internal use, totalling 19.33% of refusals (compared with a total of 26.64% in 2009).

Judicial review: the report sets out the cases heard over the year and discusses the important clarifications in relation to the interpretation of both substantive and procedural aspects of Regulation. It notes that 2010 was a very intensive year as regards new case law.

The report concludes that in 2010, there was again a significant increase in the volume of access requests, but despite this 20% increase, the ratio of disclosure remains high: four out of five requests receive a positive reply. It is noteworthy that, in ten years time, the number of access requests has risen from 500 to 6000 per year. Given the overall volume of requests, the number of confirmatory applications, complaints to the Ombudsman and applications to the Court remains very modest. Many requests cover infringement proceedings, antitrust, merger, State aid or antidumping cases. As in the previous years, requests for access concern mainly the Commission's role in enforcing EU law, where transparency must be balanced against other legitimate interests, in accordance with the applicable rules. As regards Commission initiatives for new legislation, there is already a high degree of transparency, as many documents are made public pro-actively.

Public access to European Parliament, Council and Commission documents

In accordance with the requirements of Regulation (EC) No 1049/2001, the Commission presents a report covering the year 2011.

The Commission states that after nine years of a continuous increase, the number of access requests submitted to it has remained at the same level in 2010 and 2011. With almost 6500 requests per year, the Commission handled by far the largest number of access requests of all institutions and bodies of the European Union.

This stabilisation of the volume of requests is possibly an indication that the right of access to documents has reached a significant level of public recognition among European citizens, civil society and economic operators. In the spirit of the Treaty of Lisbon, such awareness paves the way for increased public debate and their closer participation in shaping European policies.

On the other hand, the need to make requests for access to documents diminishes as the Commission gradually increased pro-active disclosure of documents and information through public registers and websites.

Active transparency has been largely achieved with regard to the legislative activity. A significant amount of access requests and almost all confirmatory applications concern the Commission's activities in the field of monitoring the application of EU law. These requests have to be handled in parallel with the investigations concerned. In such cases the Commission has to strike the right balance between ensuring transparency of its activities and protecting other rights that are guaranteed by law and by case law of the European Courts.

The report gives the following analysis of access applications:

- in 2011, the flow of access requests at the initial stage has remained fairly stable with a very small increase in the number of applications (6447 in 2011 in comparison with 6361 in 2010) and even smaller decrease in a number of replies based on Regulation (EC) No 1049/2001 (6055 in 2011 in comparison with 6127 in 2010);
- as regards the confirmatory stage, the number of the applications received diminished by almost 9% (165 new confirmatory applications in 2011 against 181 in 2010). The total number of responses to confirmatory applications closely corresponded to the number of applications received (162 cases closed in 2011 in comparison with 150 in 2010). Among those, 89% have been the confirmatory decisions on access to documents under the. Their number increased in 2011 by 18% in comparison with 2010;
- the DG for Taxation and Customs Union received the highest number of initial requests (7.80%), very closely followed by the DG Competition with 6.99% of initial applications, and the DG Health and Consumer Protection, with 6.96%;
- the academic world proved once again to be the most active category of applicants, accounting for 25.73% of initial applications, followed by law firms and civil society;
- the geographical breakdown of initial applications also remained similar to previous years with a slight increase as regards the ever largest proportion of applications coming from Belgium (21.42%). An almost equal number of applications originated from Italy and from Germany (12.37% and 12.27% respectively). None of the other Member States, exceeded 10% of applications;
- in 2011, the proportion of applications that were fully refused in the first instance remained almost identical to the previous year (12.17% in 2011 against 12.47% in 2010). Full disclosure, has been given in four out of every five cases;
- the number of cases where, following a confirmatory application, the Commission reversed the position taken by its services by fully disclosing previously refused documents, remained fairly stable (14.58% against 15.57% in 2010). However, there were less cases in which a refusal was fully confirmed and significantly more cases where wider access was granted following a confirmatory application;
- the most frequently invoked grounds for refusal is the protection of the Commission's decision-making process, followed by the protection of the purpose of inspections, investigations and audits, with an increasing tendency to invoke the protection of commercial interests and the protection of international relations;
- in 2011 the Ombudsman closed 17 complaints against the Commission's handling of requests for access to documents: 8 cases closed with a critical and/or a further remark.

Revision of Regulation (EC) No 1049/2001: two different proposals for the revision of the Regulation tabled by the Commission are still subject to interinstitutional reflection:

- the first proposal for a [recast of the Regulation](#), submitted by the Commission in 2008, introduces a series of substantial amendments, clarifying the interpretation of the Regulation 1049/2001;
- the second proposal was submitted by the Commission in 2011 with a view to adapting the Regulation to the requirements of the Treaty of Lisbon by extending the institutional scope of the Regulation to all the European Union institutions, bodies, offices and agencies, with some restrictions as regards the European Court of Justice, the European Central Bank and the European Investment Bank.

The European Parliament adopted its position with regard to both proposals in the first reading on 15 December 2011 proposing 63 amendments. The Danish Presidency of the Council has been considering various options for taking the legislative process forward with a view to reach an agreement between the European Parliament, the Council and the Commission.

Public access to European Parliament, Council and Commission documents

This Commission report relates to the application in 2012 of Regulation (EC) No 1049/2001 on public access to European Parliament, Council and Commission documents.

According to the report, in 83% of cases at the initial stage the requested documents were disclosed. At the confirmatory stage, either full or partial access was granted in 43% of cases.

- Analysis of access applications: in 2012, the flow of access requests at the initial stage decreased in number of applications (6014 in 2012 in comparison with 6447 in 2011). The number of replies based on Regulation 1049/2001 was 5274 in 2012 in comparison with 6055 in 2011.

As regards the confirmatory stage, the number of the applications received significantly increased by almost 39 % (229 new confirmatory applications in 2012 against 165 in 2011). The total number of responses to confirmatory applications corresponded to the number of applications received (202 cases closed in 2012 in comparison with 162 in 2011). Among those, 160 replies (79 %) have been confirmatory decisions on access to documents under Regulation 1049/2001. Their number increased in 2012 by 11% in comparison with 2011 where 144 such decisions were issued.

The academic world proved once again to be the most active category of applicants, accounting for 22.70% of initial applications (25.73% in 2011). As in previous years, it was followed by law firms with 13.58% (11.30% in 2011) and civil society (NGOs, interest groups) with 10.32% (8.59% in 2011) of the total number of applications.

The Commissions Secretariat General and Directorate-General (DG) for Health and Consumers received the highest number of initial requests, closely followed by the Competition and Environment DGs.

- Application of exceptions to the Right of Access: in 2012, the proportion of applications that were fully refused in the first instance slightly increased as opposed to the previous year (16.91% in 2012 against 12.18% in 2011). Full disclosure was given in almost three out of every four cases (74.48% against 80.20% in 2011) whereas the percentage of partially disclosed documents slightly increased in comparison to the previous years to reach 8.61 % (in comparison with 7.62 % in 2011).

The number of cases where, following a confirmatory application, the Commission reversed the position taken by its services by fully disclosing previously refused documents, slightly increased (18.75% against 14.58% in 2011). In addition, there was an increase in cases where a refusal was fully confirmed and a significant decrease in the number of cases where wider access was granted following a confirmatory application.

The percentage of cases where the protection of the Commission's decision-making process was invoked as ground for refusal slightly diminished in comparison with the previous year (25.15% against 25.73% in 2011). It nevertheless comes second on the list of most frequently invoked exceptions, just behind the exception aimed at protecting of the purpose of inspections, investigations and audits, which accounted for 25.32% of cases (against 21.90% in 2011).

Public access to European Parliament, Council and Commission documents

This Commission presented its report on the application in 2013 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

According to the report, in 84% of cases at the initial stage the requested documents were disclosed. At the confirmatory stage, either full or partial access was granted in 42% of cases.

Analysis of access requests: in 2013, the flow of access requests at the initial stage increased in terms of the number of applications (6525 in 2013 in comparison with 6014 in 2012). The number of replies based on Regulation 1049/2001 was 5906 in 2013 in comparison with 5274 in 2012.

As regards the confirmatory stage, the number of applications received slightly increased by 3% (236 new confirmatory applications in 2013 against 229 in 2012). 252 cases were closed in 2013 in comparison with 202 in 2012. This constitutes a significant increase of 25%.

The Commission remains by far the institution handling the largest number of both initial and confirmatory requests pursuant to Regulation 1049/2001. The Commission handles roughly twice as many requests as the Council and European Parliament together.

- In 2013, as in 2012, the Secretariat General and Directorate-General for Health and Consumers received the highest number of initial requests (13.9% and 8.3% of the total respectively), followed by the Directorate-General for Competition with 5.2% of initial applications and the Directorate-General Environment with 5.1%.
- The academic world proved once again to be the most active category of applicants, accounting for 22.1% of initial applications (as opposed to 22.7% in 2012). It was followed by civil society (interest groups, NGOs) with 16.6% (as opposed to 10.3% in 2012) and law firms with 14.5% (as opposed to 13.6% in 2012) of the total number of applications. For 25.3% of the applications, the socio-professional profile of the applicants is undefined.
- The largest proportion of applications originated from Belgium (24.2%). Aside from Belgium and Germany (13%) none of the Member States, exceeded 10% of applications.

Application of exceptions to the right of access: in 2013, the proportion of applications that were fully refused at the initial stage decreased in comparison with the previous year (14.5% in 2013 against

17% in 2012). Full disclosure has been given in almost four out of every five cases (73.5% against 74.5% in 2012) whereas the percentage of partially disclosed documents increased in comparison to the previous years to reach 10.7% (in comparison with 8.6% in 2012).

The number of cases where, following a confirmatory application, the Commission reversed the position taken by its services by fully disclosing previously refused documents, slightly increased (20.1% against 18.8% in 2012). In addition, there was a slight decrease in cases where a refusal was fully confirmed.

The most frequently invoked ground for confirming a refusal of access was, as in previous years, the protection of the purpose of investigations, (36.9% compared with 45.1% in 2012).

The proportion of decisions invoking the protection of the Commission's decision-making process as an exception was 16.1% (an increase in comparison with 2012).

The report noted an increase in the frequency of decisions invoking the on-going decision-making process (10.6% against 6.5% in 2012).

The protection of commercial interests was invoked slightly more frequently than in the previous year (12% compared with 11.8% in 2012).

The report concludes that a considerable number of access requests and the high rate of disclosure of documents show that the right of access to documents constitutes an important tool within the Commission's overall efforts to promote transparency. These include, among others, (i) the recent revision of the transparency register and (ii) the strengthening of the Commission's guidelines for stakeholder consultation.

In order to ensure transparency, the right of access to documents continues to be complemented by an extensive publication of information and documents on the Commission's legislative and non-legislative activities.

Public access to European Parliament, Council and Commission documents

The Commission presents a report on the application in 2014 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The 2014 statistics show the importance of the right of access to documents within the Commission's transparency policy. The documents

requested were fully or partially disclosed in 88% of cases at the initial stage, and wider, additional, access was granted in 43% of cases at the confirmatory stage.

In 2014, the Commission's public register covered the following documents: COM, SEC, C, JOIN, SWD, OJ and PV series. No sensitive documents were created or received by the Commission in 2014, which would fall within one of these categories of documents.

Analysis of access applications: in 2014, the flow of access requests at the initial stage decreased slightly (6,227 in 2014 in comparison with 6,525 in 2013). The number of replies based on Regulation (EC) No 1049/2001 was 5,637 in 2014 in comparison with 5,906 in 2013.

As regards the confirmatory stage, the number of applications received increased significantly by 27% (300 new confirmatory applications in 2014 against 236 in 2013). 327 cases were finalised in 2014 in comparison with 252 in 2013. This constitutes a significant increase of 30%.

The Commission remains by far the institution handling the largest number of both initial and confirmatory requests pursuant to Regulation (EC) No 1049/2001. The Commission handles more than twice as many requests as the Council and the European Parliament together.

In 2014, as in 2013, the Secretariat General received the highest proportion of initial requests (11.6% of the total). Initial requests for documents held by the Directorate-General for competition increased from 5.1% to 7.6%, putting it at the second rank., whilst requests for documents held by the Directorate-General for Health and Consumers, occupying the third rank, decreased from 8.3% to 7.2%. Six other Directorates-General received a number of requests representing more than 5% of total requests (Agriculture and Rural Development, Enterprise and Industry, Environment, Internal Market and Services, Taxation and Customs Union, and Trade).

- The academic world proved once again to be the most active category of initial applicants, accounting for 19.8% of initial applications (in comparison with 22.1% in 2013). It was followed by law firms with 18.3% and only then by civil society (interest representatives, NGOs) with 16% (as compared to respectively 14.5 and 16.6% in 2013) of the total number of applications. Applications by other European institutions increased significantly from 8.8% in 2013 to 12.8% in 2014.
- The largest proportion of applications continued to originate from Belgium (29.3%). Aside from Belgium and Germany (11.9%) none of the Member States exceeded 10% of applications. Italy, France, the United Kingdom and Spain follow these two countries.

Application of exceptions to the right of access: in 2014, the proportion of applications that were fully refused at the initial stage decreased in comparison with the previous year (11.9% in 2014 against 14.5% in 2013). Full disclosure continued to be given in almost three out of every four cases (72.8% against 73.4% in 2013) whereas the percentage of partially disclosed documents increased in comparison with previous years, to reach 15.4% (compared to 10.7% in 2013).

The most frequently invoked ground for confirming a refusal of access was, as in previous years, the protection of the purpose of inspections, investigations and audits, even if it has decreased somewhat (33% in 2014 compared to 36.9% in 2013). The application of the protection of privacy and the integrity of the individual as an exception increased (18.1% in 2014 against 16.1% in 2013), as did the frequency of the exception based on the protection of commercial interests (16% in 2014 against 12% in 2013).

Globally, the proportion of decisions invoking the protection of the Commission's decision-making process decreased from 16.1% in 2013 to 14.5% in 2014. The protection of court proceedings and legal advice was invoked more frequently than in the previous year (10.3% in 2014 against 6.9% in 2013), whilst the frequency of application of the exception based on the protection of the financial, monetary or economic policy decreased from 7.4% in 2013 to 4.6% in 2014.

Policy of the new Commission: the report concludes that the volume of access requests and the high rate of disclosure of documents show that European citizens actively use the right of access to documents. The Commission's objective is to respond to such requests in the most timely and resource efficient manner possible.

The new Commission led by President Juncker is committed to enhanced transparency. This commitment is being delivered through:

- publication of information on who meets its political leaders and senior officials;
- greater access to documents relating to the negotiations for a Transatlantic Trade and Investment Partnership (TTIP) with the United States;
- revision of the transparency register, and
- adoption of the Better Regulation Agenda.

The new Commission also decided that Commissioners, Cabinet members and Directors General should only meet representatives of interest groups who have signed up to the transparency register.

Public access to European Parliament, Council and Commission documents

The Commission presented a report on the application in 2015 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The importance of the right of access to documents within the Commission's transparency policy is immediately apparent from the 2015 statistics, as the requested documents were fully or partially disclosed in 84% of cases at the initial stage, and wider or even full access was granted in 41% of cases reviewed at the confirmatory stage.

In 2015, 18 945 new documents were added to the register of Commission documents.

In 2015, the Commission continued to put into practice its commitment to enhanced transparency, as illustrated by:

- its systematic publication of information on who meets its political leaders and senior officials;
- enhanced access to and publication of documents relating to the negotiations for a Transatlantic Trade and Investment Partnership (TTIP) with the United States;
- an improved version of the Transparency Register;
- progressive implementation of the Better Regulation Agenda.

Analysis of access applications: in 2015, the inflow of access-to-documents requests at the initial stage increased by more than 8% (6 752 applications in 2015 compared to 6 227 in 2014). As regards confirmatory applications for a review, by the Commission, of the initial full or

partial refusal, the number of applications received slightly decreased (284 new confirmatory applications in 2015 against 300 in 2014).

- The Directorate-General for Health and Food Safety received the highest proportion of initial requests (9.2% of the total), whilst the Secretariat General occupied the second rank, with a decrease from 11.6% in 2014 to 8.7% in 2015. Initial requests for documents held by the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs increased from 5% to 8.6%, putting it in third place. Four other Directorates-General received a number of requests representing more than 5% of total requests (Competition, International Cooperation and Development, Environment, and Taxation and Customs Union).
- Most applications in 2015 originated from citizens that did not specify their socio-professional profile (23% of the total number of applications). Amongst those who did, the academic world was the most active category of applicants, accounting for 22.3% of initial applications (in comparison with 19.8% in 2014), whilst the third rank was occupied by civil society, with 15.6% of total applications. Applications by lawyers, occupying the fourth place, decreased significantly, from 18.3% in 2014 to 13% in 2015.
- the largest proportion continued to originate from Belgium (26.8%) and Germany (11.7%). Applications from Spain increased significantly, from 6.2 in 2014 to 9.9% in 2015, putting it in third place. That Member State was followed by France and the United Kingdom (both 7.6%), Italy (7.3%) and the Netherlands (5.5%).

Application of exceptions to the right of access: in 2015, full disclosure at the initial stage continued to be given in more than two out of every three cases with a slight decrease. The percentage of partially positive replies remained largely identical (15.3% in 2015 compared to 15.4% in 2014), up from a relatively lower percentage in the three previous years.

As regards the exceptions invoked, the protection of privacy and the integrity of the individual continued to be the main ground for (full or partial) refusal at the initial stage (with an increase from 21% in 2014 to 29.4% in 2015). It came ahead of the exception aimed at protecting the purpose of inspections, investigations and audits, which was invoked less frequently than in previous years (20.9% in 2015, against 25% in 2014 respectively).

The protection of the decision-making process, occupying the third place, was also less frequently invoked. The relative use of the protection of commercial interests as an exception remained almost identical, whilst the exception based on the protection of international relations was less frequently invoked than in previous years.

Conclusions: with regard to the right of access to documents, the Commission continued to pro-actively publish a wide range of information and documents on its various, legislative and non-legislative activities.

The right to access documents upon request, subject to specific, limited exceptions, as provided by the Treaties and Regulation 1049/2001, continued to be an important instrument through which the Commission delivers on its transparency commitment. The Commission's objective is to respond to such requests in the most timely and resource-efficient manner possible.

Public access to European Parliament, Council and Commission documents

The Commission presented a report on the application in 2016 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Number of applications: in 2016, the number of initial applications decreased by almost 10% (6 077 compared to 6 752 in 2015). The number of initial replies based on Regulation 1049/2001, on the other hand, increased by more than 2% (from 5 819 in 2015 to 5 944 in 2016 the highest number of replies in the last five years).

The remaining 1 193 replies were provided outside the scope of Regulation 1049/2001, or confirmed that the documents requested were not in the possession of the Commission.

Most initial applications in 2016 continued to originate from citizens. These accounted for almost 40% of all applications (38.3% compared to 24.7% in 2015). The academic institutions and think tanks were the second most active category, accounting for 16% of initial applications (in comparison with 21.3% in 2015).

Regarding the geographical breakdown of initial applications, the largest proportion continued to originate from the applicants within Belgium (27.2%, compared to 26.8% in 2015), followed by Germany (12.6%, compared to 11.7% in 2015) and the United Kingdom (a significant increase, from 7.6% in 2015 to 10% in 2016).

Application of exceptions to the right of access: in 2016, full or partial access to documents was given in more than 80% of cases at the initial stage (81.3% in comparison to 84.7% in 2015). Full access continued to be given in almost 61% of all cases.

As regards the invoked exceptions to the right of access, the protection of privacy and the integrity of the individual continued to be the main ground for (full or partial) refusal of access at the initial stage, remaining constant at almost 30%. The second most invoked exception was the protection of the decision-making process of the institution (a slight increase, from 20.3% in 2015 to 21.7% in 2016). The exception aimed at protecting the purpose of inspections, investigations and audits, occupying the third place, was invoked considerably less frequently than in 2015 (16.2% in 2016 compared to 20.9% in 2015).

Complaints to the European Ombudsman: in 2016, the Ombudsman closed 21 complaints against the Commission's handling of requests for access to documents. Six of these were closed with further or critical remarks. For comparison, in 2015 the Ombudsman closed 23 complaints, six of which with a critical remark.

In 2016, the Ombudsman opened 12 new inquiries where access to documents was either the main or a subsidiary part of the complaint (a slight increase in comparison to 2015, when 11 new inquiries were opened).

Conclusions: in 2016, the Commission continued to deliver on its commitment to increase transparency, both under Regulation 1049/2001 and in the framework of its broader transparency agenda. It continued to pro-actively publish, in a user-friendly way, a wide range of information and documents on its various, legislative and non-legislative activities.

The right to access documents upon request, as provided for in the Charter of Fundamental Rights of the EU, the Treaties and Regulation 1049/2001, continued to be an important instrument through which the Commission delivers on its transparency commitment.

In 2016, the Commission received more than 6 000 initial applications for access to documents, and close to 300 confirmatory applications.

This demonstrates that EU citizens and other beneficiaries are making active use of their right to access documents held by the Commission.

The Commission remains by far the institution handling the largest number of access-to-documents requests.

Public access to European Parliament, Council and Commission documents

The Commission presented a report on the application in 2017 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Applications for access

In 2017, the number of initial applications increased by almost 3% (6 255 compared to 6 077 in 2016). The requested documents were fully or partially disclosed in 82% of the 6 255 cases at the initial stage, and wider or even full access was granted in 46.9% of the 299 cases reviewed at the confirmatory stage. The number of confirmatory replies based on Regulation 1049/2001 increased significantly by 15 %, from 219 in 2016 to 258 in 2017.

The Directorate-General for Competition received the highest proportion of initial applications (9.9% in comparison to 7.2% in 2016), whilst the Directorate-General for Health and Food Safety occupied the second rank.

Most initial applications in 2017 continued to originate from citizens (37.4% of all applications) followed by academic institutions and think tanks (21.6% in 2017 in comparison to 16.0% in 2016), and by companies and legal professionals (13.6% and 13.2% respectively of initial applications).

Regarding the geographical breakdown of initial applications, the largest proportion of initial applications continued to originate from applicants residing or based in Belgium (25.7%, compared to 27.2% in 2016), followed by the United Kingdom (a significant increase, from 10.0% in 2016 to 15.2% in 2017) and Germany (11.9%, compared to 12.6% in 2016).

Application of exceptions to the right of access

In 2017, full or partial access to documents was given in more than 82% of cases at the initial stage (82.0% in comparison to 81.3% in 2016). Full access continued to be given in almost 62% of all cases. Almost every second initial reply challenged by a confirmatory application was (fully or partially) reversed at confirmatory stage (46.9% in 2017 compared to 52% in 2016).

Invoked exceptions to the right to access

The protection of privacy and the integrity of the individual continued to be the main reason for (full or partial) refusal of access at the initial stage, remaining constant at 31.3%. The second most invoked exception was the protection of the purpose of inspections, investigations and audits (17.6 in 2017 compared to 16.2% in 2016). The exception aimed at protecting commercial interests, occupying the third place, was invoked more frequently than in 2016 (16.8% in 2017 compared to 13.7% in 2016). The relative use of the exception protecting the decision-making process of the institution slightly decreased (16.3% in 2017, compared to 18.8% in 2016).

Ombudsman and judicial review

In 2017, the European Ombudsman opened 25 new inquiries where access to documents was either the main or a subsidiary part of the complaint (a significant increase in comparison to 2016, when 12 new inquiries were opened, reflecting the increased importance given by the European Ombudsman to that area of activity).

The report notes that in 2017, the EU Courts have delivered important new case law that will influence the European Commission's practice under Regulation (EC) No 1049/2001. It details the judgments delivered by the Court of Justice and the General Court.

Regarding commercial interests, the General Court ruled that documents submitted under the REACH Regulation do not automatically fall under a general presumption of refusal of access. The fact that a document may be protected by an intellectual property right flowing from sectorial legislation does not automatically imply that the document is to be considered a business secret. The release of documents reflecting exposure levels to dangerous chemical substances can in some cases be considered justified by an overriding public interest.

Concerning the purpose of investigations, the General Court confirmed the general presumption of non-accessibility of documents pertaining to a State aid file.

The Commission states that it continued to deliver on its commitment to increase transparency, both under Regulation (EC) No 1049/2001 and in the framework of its broader transparency agenda. It did this through:

- proactive publications that help to enhance the quality and quantity of information and documents disseminated to the general public via its websites;
- progressive implementation of the Better Regulation Agenda;
- the policy concerning revolving doors;
- the proposal for an Interinstitutional Agreement on a mandatory Transparency Register;
- various initiatives aimed at increasing pro-active transparency, including: (i) the systematic publication of information on the meetings of the Commissions political leaders and senior officials with stakeholders; (ii) the publication of relevant documents on the ongoing withdrawal negotiations with the United Kingdom; (iii) the launch of the new online Interinstitutional Register of Delegated Acts; and (iv) the regular publication of mission expenses of individual Commissioners.

The European Commission remains by far the EU institution handling the largest number of requests for access to documents. The high disclosure rate of documents following numerous access requests has resulted in a large number of documents being made available.

Public access to European Parliament, Council and Commission documents

The Commission presented a report on the application in 2018 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

In 2018, the European Commission took important steps to proactively deliver on its strong commitment to increased transparency and accountability, in order to enhance the trust of European citizens in the processes of the EU institutions.

Transparency initiatives

The Commission deployed targeted efforts to further enhance the transparency of all its core activities, ranging from law making and policy implementation to contacts with stakeholders and pressure groups.

In 2018, this approach was reflected in particular in:

- the development of the interinstitutional register of delegated acts and the efforts made to make the legislative procedure more transparent and accessible, in particular through the improvements made to EUR-Lex;
- the entry into force of the new Code of Conduct for Members of the European Commission;
- raising transparency to the level of a guiding principle under the new data protection rules for EU institutions and bodies;
- the unprecedented level of transparency in the context of the sensitive negotiations on Brexit;
- the expansion of the transparency register: in December 2018, it contained over 11 900 entries, 5000 more than when the Commission took office, including 2762 new entities that joined during the year;
- the publication on a dedicated website of negotiating texts, as well as the reports of the latest rounds of existing EU trade agreements and ongoing trade negotiations with third countries;
- the revision of the European Citizens' Initiative.

In 2018, the European Commission became increasingly confronted with a new pervasive challenge to transparency, namely online disinformation. The institution therefore engaged with all stakeholders to define a clear, comprehensive and broad-based action plan¹⁶³ to tackle its spread and impact in Europe, so as to ensure the protection of European values and democratic systems.

Requests for access

The European Commission remains by far the EU institution handling the largest number of requests for access to documents under Regulation (EC) No 1049/2001. In 2018, it reached its highest number of requests ever since the entry into force of the Regulation in 2001, having received no less than 6 912 initial applications. Most of these applications pertained each to a range of documents, if not entire files.

On the one hand, this rise in the number of applications and their complexity have increasingly confronted the institution with the difficult challenge of reconciling the principle of transparency with balanced and efficient policy-making. On the other hand, it has undeniably resulted in a high number of documents becoming available to the public, subject to some exceptions.

In 2018, the Directorate-General for Health and Food Safety received the highest proportion of initial applications (11%), followed by the Secretariat-General (6.7%), and the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (6.5%). The Directorate-General for Taxation and Customs Union (6.4%), the Directorate-General for Competition (5.9%), and the Directorate-General for Mobility and Transport (5.2%) were the only other services receiving more than 5% of all initial applications each. The remaining European Commission departments each accounted for 5% or less of all initial applications.

In 2018, most initial applications originated, as in the previous years from citizens (42.2% of the requests). The second place amongst the most prolific applicants was no longer occupied by academics as in 2017, but by companies, which accounted for almost 16.7 % of the initial applications. The former were relegated to the third place (with around 10.6%), closely followed by law firms and journalists (with approximately 10.1% each).

Statistics show that the requested documents were fully or partially disclosed in more than 80% of the cases at the initial stage, and wider or even full access was granted in almost 41% of the 288 cases reviewed at the confirmatory stage.

Regarding the geographical breakdown of initial applications, Belgium, the United Kingdom and Germany continued to remain, as in 2017, the three main countries from which most of the applications for access to documents originate. France is in fourth place.

Judicial review

In 2018, the right to access documents upon request, as provided for in the Charter of Fundamental Rights of the European Union, the European Union Treaties and Regulation (EC) No 1049/2001, continued to play a key role in the European Commissions implementation of its transparency commitment.

In 2018, the General Court handed down 27 judgments involving the European Commission in relation to the right of access to documents under Regulation (EC) No 1049/2001. The European Commission was a party to the proceedings in 26 of them and it intervened in one of them. In the vast majority of these cases, the position of the institution prevailed.

Out of the above mentioned 27 cases, only six of them resulted in the (partial) annulment of the contested institutions decision, one of which originated from the Parliament

The low rates of actions and judgments in annulment of its decisions in that area, seems to illustrate that the European Commission generally strikes the proper balance between the right of access and the other public or private interests protected under the exceptions laid down in Regulation (EC) No 1049/2001.