

Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 24/09/2007 - Follow-up document

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The report concludes that growing public interest in access to unpublished Commission documents was confirmed in 2005.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

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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.