

# Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 20/12/2007 - Follow-up document

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.