

# Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 02/08/2012 - Follow-up document

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.