

Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 29/07/2019 - Follow-up document

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 Commission's 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 institution's 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.