Documents of the European Parliament, Council and Commission: public access (implem. Regulation (EC) No 1049/2001)

2003/2022(INI) - 31/03/2003 - Document attached to the procedure

The Council has presented its annual report on the implementation of Regulation 1049/2001/EC regarding public access to European Parliament, Council and Commission Documents. This report was approved by the Working Party on Information at its meeting on 28 March 2003. In order to comply with Regulation 1049/2001, 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. On a practical level, although the time limit for reply has been made considerably shorter compared with the previous system, (reduced to 15 working days, with an additional 15 working days if necessary), the General Secretariat meets this time limit when processing initial applications. The time limit for confirmatory application is also met, despite the stages to be completed (examination by the Working Party on Information, then approval by Coreper and the Council). Moreover, it is only exceptionally that the time limit is extended, in particular for applications concerning a large number of documents. The Council also systematically examines the possibility of giving partial access to the documents requested, as laid down in Article 4(6) of Regulation 1049/2001. This practice ensures greater transparency in particular in legislative documents: as a general rule, the Council gives access to the content of preparatory documents regarding legislative acts even if they are still under discussion, including the positions of delegations, excluding only those parts which allow delegations to be identified. In 2002, approximately 900 000 persons logged onto the internet site of the register and consulted 4 600 000 pages. By 31 December 2002, the register referred to 375 154 documents, including all languages; the content of 168 647 of these documents could be accessed directly. Partially accessible documents bear the code P/A in the register: their content is not directly accessible, but the person consulting the register is informed that he can submit an application for access to the relevant section of the General Secretariat of the Council. By 31 December 2002, the register contained 2944 documents bearing the code P/A. As regards sensitive documents, for the period concerned a total of 250 "TRES SECRET UE/EU TOP SECRET", "SECRET UE" and "CONFIDENTIEL UE" documents were produced (no "TRES SECRET UE/EU TOP SECRET", 12 "SECRET UE" and 238 "CONFIDENTIEL UE") in the original language; 77 of these documents (no "SECRET UE" and 77 "CONFIDENTIEL UE") are referred to in the register. 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 themeaning 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). As regards the number of refusals of access, the report states 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.