Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 31/03/2003

This document consists of the annual report of the Council on the implementation of Regulation 1049/2001 /EC of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. To recall, Article 17(1) of Regulation 1049/2001/EC stated that each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register. As regards the regulatory, administrative and practical adaptations. In order to comply with this Regulation, 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. The report presents an analysis of requests for access, requests from the public for access to Council documents are processed in the initial phase by the General Secretariat of the Council. In the event of a total or partial refusal of access by the General Secretariat of the Council to a document, the applicant may submit a confirmatory application asking the institution to reconsider its position. In the event of a total or partial refusal of a confirmatory application, the applicant may lodge a complaint with the European Ombudsman and/or institute proceedings before the Court of First Instance of the European Communities. Annex I to this report provides statistics on public access to Council documents for the period of 3 December 2001 to 31 December 2002; the comparative figures for the period 1999-2002 are in Annex II. 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 the meaning 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 shouldbe 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). Concerning the number of refusals of access, the report shows 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.