Public access to European Parliament, Council and Commission documents

2000/0032(COD) - 29/07/2005 - Follow-up document

This report, which covers 2004, is the third report presented by the Commission under Article 17(1) of Regulation 1049/2001/EC. The continuing increase in the number of requests for access since the Regulation was adopted was repeated last year:

- between 2002 and 2003, the number of initial requests rose from 991 to 1 523, i.e. an increase of 53.7%;

- in 2004, 2600 initial requests were recorded, i.e. 1077 more than in 2003, or an increase of 70.72%.

The increase in confirmatory requests was less marked:

- between 2002 and 2003, the number rose from 96 to 143, i.e. an increase of 48.96%;

- in 2004, the number of confirmatory applications rose to 162, i.e. 19 more than in 2003, or an increase of 13.29%.

The breakdown by area of interest remained more or less the same as in previous years. Competition, customs, indirect taxation, the internal market and the environment continue to rouse most interest, accounting for approximately 40% of requests.

More than a quarter of the requests (26.42%) came from persons or bodies established in Belgium, because of the number of multinational companies, law firms and associations or NGOs operating at European level with an office in Brussels. Moreover, the majority of requests (over half) came from Germany, Italy, France, the

United Kingdom, Spain and the Netherlands. The percentage from the new Member States remains low (4.31%).

Following completion of the process for handling requests, the rate of positive replies stands at 70% (compared with 72.82% in 2003); in 65.45% of cases the whole document was disclosed, and in 4.58% of cases partial access was granted.

The main reasons for confirming refusal of access were:

- protection of the purpose of investigations (26.32 %);

- protection of the decision-making process (21.75 %).

It should be pointed out that the protection of commercial interests was the basis of a significantly bigger number of refusals at the confirmatory stage than in 2003, up from 11.87% to 15.79%. This exception was clearly invoked more at the confirmatory stage than at the initial stage (8.33%).

In conclusion, the growing public interest in accessing unpublished Commission documents was confirmed in 2004. As in previous years, applications were made largely by companies, NGOs, law firms and various interest groups (over 40%). The general picture which emerges from the analysis of requests is that a significant

proportion of them relate to Commission activities regarding the monitoring of Community law. In many cases, the purpose is to obtain documents which could support the requester's position in connection with a complaint, relating for example to a presumed infringement of Community law, or an administrative or legal appeal.

These requests generally involve a substantial volume of documents and examining them entails considerable administrative work. The reasons most frequently given for refusal are the protection of the following

interests: purpose of investigations, commercial interests of companies and the Commission's decision-making process. This last exception is invoked more to protect the taking of individual decisions than the legislative process, where the trend is to make more and more documents public without waiting for requests for access.

The number of complaints presented to the Ombudsman under Regulation 1049/2001 remains stable despite the increase in the number of requests for access. In most cases, either the Ombudsman concluded that there had been no maladministration or the case was settled to the satisfaction of the complainant.

The Court of First Instance confirmed its interpretation of the exception relating to the right of the Member States to oppose disclosure of documents transmitted by them to the Commission.