

EUROPEAN EXTERNAL ACTION SERVICE



Corporate Board Secretariat

**Report of the European External Action Service
On Access to Documents
2014**

**EEAS(2015) 562
of 14/04/2015**

REPORT ON ACCESS TO DOCUMENTS FOR 2014

A. Introduction

Article 17.1 of Regulation (EC) n° 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ¹ (hereafter referred to as “the Regulation”) provides 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.*”

This report is the third report on access to documents for the European External Action Service and it covers the fourth year of existence of the EEAS.

B. Regulatory, administrative and practical measures

The legal and administrative basis for access to documents owned by the EEAS has been unchanged in 2014. It is the HR/VP's Decision on the EEAS rules regarding access to documents adopted on 19 July, 2011.

C. Key developments

- Awareness of the obligations arising from the Regulation and internal coordination in the preparation of the replies to the requests for access have continued to improve in the EEAS, together with the increase of the number of requests processed directly by the Service.
- A joint awareness raising campaign by the Transparency unit of the General Secretariat of the Council and the Transparency coordinator of the Service has taken the form of two in-depth trainings for several divisions of the EEAS. This has contributed to improve the already good cooperation between the two administrations.

¹ OJ L145, 31.5.2001, p. 43.

D. Initial applications for access to documents

The following table indicates the number of initial applications processed by the EEAS.

	Number of initial requests received
Q1	48
Q2	35
Q3	43
Q4	57
Total 2014	183 of which 76 requests (42%) came from the academic sector

A positive reply and full access to the documents requested was given to 70% of the initial applications (128 requests).

Partial access was given to 16% of the initial applications (30 requests).

9% of the cases (17 requests) were subject to a full refusal.

For 8 requests, additional information was asked from the requestor so as to better understand what s/he was looking for, yet no answer was received.

The grounds for, partial or total, refusal most frequently evoked were²:

- The protection of the public interest as regards international relations (Art. 4.1.(a) third indent) for 47% of the cases (22 requests);
- The protection of privacy and the integrity of the individual (Art. 4.1.(b)) for 30 % of the cases (14 requests);
- The protection of the public interest as regards defence and military matters (Art. 4.1.(a) second indent) for 17% of the cases (8 requests);
- The protection of the commercial interests of a natural or legal person, including intellectual property (Art. 4.2.) for 6% of the cases (3 requests);
- The institution's decision-making process where the decision has not yet been taken (Art. 4.3.) for 4% of the cases (2 requests).

It should be noted that 2014 has been marked in the EEAS by an important number of requests for access to documents linked to the various regimes of restrictive measures set up by the European Union. Some of them – in particular those concerning individuals and/or entities subject to a listing

² The percentages given are that of the cases for which the document(s) was/were partially or totally refused, i.e. a total of 47 cases in 2014.

under one of the regimes of restrictive measures – were expressed in parallel with requests for privileged access according to the right of defence in court cases and for access to personal data processed by the administration pursuant to Regulation 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data³.

E. Cooperation with other Institutions for access to documents

The EEAS has been consulted 5 times by the transparency service of the Secretariat General of the European Commission. It has also answered directly to numerous requests for which the Commission indicated to the requestor that the competence has been transferred to the EEAS.

The EEAS has been consulted regularly (41 times in 2014) by the transparency service of the General Secretariat of the Council, mainly on documents that were produced under the responsibility of services that were transferred from the General Secretariat of the Council to the EEAS when the EEAS has been set up, although an increasing number of consultations concern documents produced after January the 1st, 2011, when the EEAS was established.

There were also a few occurrences when the EEAS consulted the General Secretariat of the Council or specific DGs of the Commission, which had produced documents held by the EEAS. Extensive mutual consultation occurred on the various requests for access to documents related to the various regimes of restrictive measures, as well as on the parallel requests for privileged access and/or access to personal data.

F. Consultation of third parties

Third States' administrations were consulted for several requests for access to documents, in particular for jointly produced documents, such as joint minutes of meetings or correspondence between the EEAS and a particular third State.

This has also been the case for exchange of correspondence between some private companies and the EEAS.

The EEAS has taken the view that personal data of civil servants, both within the EEAS or in other administrations, as well as of employees of private companies should in general not be disclosed, unless the person concerned can be considered a public person. The relevant personal data was consequently redacted from the documents to which access was given pursuant to art. 4(1)(b) of the Regulation without that the individual concerned was consulted.

³ OJ L8, 12/1/2001, p. 1.

G. Confirmatory applications for access to documents

The Chief Operating Officer of the EEAS has examined nine confirmatory requests in 2014,

- The refusal to grant access to the documents requested has been confirmed in two cases;
- An extended partial access has been given to the requested documents in seven cases.

H. Further recourse concerning access to documents requests

There was no occurrence neither of a court proceeding nor of a complaint to the Ombudsman regarding the implementation of the Regulation against the EEAS in 2014.
