

EUROPEAN EXTERNAL ACTION SERVICE



Parliamentary Affairs Division

Report of the European External Action Service

On Access to Documents

2015

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ANNUAL REPORT ON ACCESS TO DOCUMENTS

FOR 2015

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.*”

B. Regulatory, administrative and practical measures

The legal and administrative basis for access to documents held by the EEAS is the HR/VP's Decision of 19 July, 2011. It should be noted that, as of 16 September 2015, handling of requests for access to documents was attributed to the Division for Parliamentary Affairs, (SG.AFFGEN.2).

C. Key developments

Article 11 (1) of the Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents provides that “[...] *each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form.* [...]”.

On 19 December 2014 the Chief Operating Officer / Director General for Budget and Administration of the EEAS issued the decision EEAS DEC(2014) 051, which established the register of official documents of the EEAS and created the function of a Registrar as from 1st January 2015.

The decision stipulated that the Register shall be made publicly accessible on the EEAS website, which shall also contain information on how to search and access documents.

This e-EEAS Register was set up in the beginning of the year and entered into force in mid-February 2015. Therefore, all documents that are registered in the new e-EEAS Register are only dated from 2015 onwards.

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 in 2015.

| | Number of initial requests received |
|-------------------|--|
| Q1 | 67 |
| Q2 | 51 |
| Q3 | 26 |
| Q4 | 19 |
| Total 2015 | 163 of which 70 requests (43%) came from the academic sector |

A positive reply and full access to the documents requested was given to 66% of the initial applications (107 requests).

Partial access was given to 15% of the initial applications (24 requests).

12% of the cases (20 requests) were subject to a full refusal.

For 12 requests, additional information was asked from the requestor in order to better understand what the s/he was looking for, yet no answer was received.

The grounds for (partial or total) refusal most frequently evoked were ²:

- The protection of the public interest as regards international relations (Art. 4(1)(a) third indent) for 57% of the cases (25 requests);
- The protection of the public interest as regards defence and military matters (Art. 4(1)(a) second indent) for 20% of the cases (9 requests);
- The protection of privacy and the integrity of the individual (Art. 4(1)(b)) for 18 % of the cases (8 requests);
- The protection of the public interest as regards public security (Art. 4(1)(a) first indent) for 4% of the cases (2 request);
- The protection of the commercial interests of a natural or legal person, including intellectual property (Art. 4(2)) for 2% of the cases (1 request);
- The institution's decision-making process where the decision has not yet been taken (Art. 4(3)) for 2% of the cases (1 request).

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 44 cases in 2015.

E. Cooperation with other Institutions for access to documents

During 2015, the EEAS was consulted 10 times by the competent service of the Secretariat General of the European Commission. The EEAS 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 (87 times in 2015) 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 at the time when the EEAS was set up. In addition, several consultations concerning documents produced after 1 January, 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, since they had produced documents held by the EEAS. Extensive consultation between institutions occurred on requests for access to documents relating to the various regimes of restrictive measures, as well as on requests for privileged access and/or access to personal data, which had been sent in parallel to several institutions.

F. Consultation of third parties

In accordance with Art. 4(4), third States' administrations were consulted at several occasions with regard to requests for access to documents and correspondence held by the EEAS, but originating from a third State.

G. Confirmatory applications for access to documents

In 2015, the Chief Operating Officer of the EEAS examined eleven confirmatory requests:

- The refusal to grant access to the documents requested was confirmed in five cases,
- In six cases an extended partial access was given to the requested documents.

H. Further recourse concerning access to documents requests

In 2015, there was no occurrence neither of a court proceeding nor of a complaint to the Ombudsman against the EEAS regarding the implementation of Regulation in 1049/2001.