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Complaint no: 3208/2006/GG

Dear Mr Diamandouros,

Thank you for your letter of 24 January enclosing the Commission's response to your letter of 5 July 2007.

The Commission's reply is disappointing in that it simply reiterates its previously stated positions on a number of key questions:

1. It states that "Article 11 of the Regulation does not require the institutions to list all their documents in a public register". In my view this statement is clearly erroneous, Article 11 is unequivocal in stating that:

"each institution shall provide public access to a register of documents... References to documents shall be recorded in the register without delay."

Moreover, if the other institutions took a similar stance access to EU documents would become partial and piecemeal as each could pick and choose what to include in its register.

I think a ruling on this matter is clearly needed.

2. The Commission yet again rejects the obligation placed on it under Article 3.a regarding the definition of a "document".

In my view it is not for the Commission to reinterpret this provision.

3. The Commission states yet again that it will "gradually" extend the scope of its public registers. It must be recalled that it was well known at least since 1999 - well prior to the adoption of the Regulation in 2001 - that the question of the need for each institution to have a single register would pose a problem for the Commission as each DG had its own registration system. On many occasions I publicly debated this issue with Mary Preston who then represented the Commission. The Regulation stated that:

"the measures necessary to establish a register shall be operational by 3 June 2002."

We are coming up to nearly six years later and the Commission is still claiming that it will proceed at whatever pace it determines.

4. The response on “Internal registers” is not very helpful. We are told that the current system based on each DG is to be “replaced with a new single registration system”, why cannot this new system be the basis of a comprehensive public register? The Commission’s appears to be putting its own institutional interests before the public’s fundamental right to access its documents.

The Commission says that the current registers were set up for “internal administrative purposes” and that they would have to be “screened” and “selected” before being fed into a public register - why? All should be listed even if access is not automatically given.

5. Obligation to provide a single register: the Commission again asserts there is no obligation to set up a single register despite the fact that Article 11 refers to a “register” in the singular in each of its sub-sections (1, 2 & 3).

The statement that the Commission “is not aware that users have experienced difficulties in searching the registers due to the fact that there is no single Commission register” is irrelevant. It has only conducted limited consultations on the application of the Regulation and, as far as I am aware, has not conducted any meaningful research into user’s experiences in trying to access Commission documents.

On our estimate the Register of Commission documents described as a “register of internal and preparatory documents”, contains only 10% of documents produced.

6. In conclusion I must say that I find it extraordinary that the Commission, which is a custodian of EC law, should think it can simply ignore or re-interpret the obligations placed on it under the Regulation.

Yours sincerely,

Tony Bunyan,
Editor
(member of the International Federation of Journalists)