

Statewatch

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Dear Mr Diamandouros,

I am writing to lodge a complaint about the failure of the European Commission to provide and maintain a public register of its documents as specified in Article 11 of Regulation (EC) 1049/2001 (which came into force on 3 December 2001).

Each of the three main EU institutions was obliged under Article 11.3 of the Regulation to “establish a register which shall be operational by 3 June 2002”.

The Council of the European Union and the European Parliament have both established public registers that contain references to their documents. While there is room for improvement in the scope of these registers they can broadly be said to meet the requirements of the Regulation.

The same cannot be said of the European Commission. Its public register of documents only contains legislative texts and adopted Commission reports (including SEC documents). This register clearly does not include the vast majority of documents produced or received by the Commission.

In its annual reports the Commission has simply spoken of gradually “improving” its register.

The terms of Article 11 of the Regulation are quite clear:

1. A register of documents, with public access, shall be established by each of the three EU institutions, including the Commission;
2. “references to documents shall be recorded in the register without delay”;
3. “each document” shall include a reference number and its subject matter;

Further, Recital 10 of the Regulation states that access covers not only documents produced by the institutions but also those “received by them”.

The obligation under Article 3 must also be seen in the context of Article 3 which defines a “document” as “any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility”

Overall these obligations must be seen in the context of Article 1 of the Regulation which obliges the institutions “to ensure the widest possible access documents”. And Recital 2 says access to documents: “enables citizens to participate more closely in the decision-making process”.

I contend that the Commission’s register of documents does not fulfil the requirements of Regulation 1049/2001 because it contains only a fraction of the documents produced and received by the Commission in the course of its activities.

Furthermore, as four years have now passed since the deadline set down in the Regulation, I believe that the Commission’s failure to implement Community law by ensuring the widest possible access to its documents via a public register is a case of maladministration.

This failure is compounded by the fact that the Commission has internal databases (for example, the “Adonis” database, used by officials everyday) which could provide the basis for a proper public register of documents.

Yours sincerely,

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