



## Statewatch press release:

### Proposal to extend the EU Regulation on public access to documents to include “freedom of information” requests

Statewatch has submitted a proposal to the Civil Liberties Committee (LIBE) of the European Parliament to make explicit the right to make “Freedom of information” requests for EU documents.

Statewatch has proposed that a new Article 6a be added to the Regulation as follows (see also the current text of Article 6 below):'

*“1. Notwithstanding Article 6, an applicant has the right to seek information on the activities or policies of the institutions without initially identifying specific documents.*

*2. In the case of a request for information referred to in paragraph 1, the institutions shall apply Article 6(2) and (4) of this Regulation to the extent that there may be existing documents which are relevant to the request for information. They shall also supply any additional information which may be required to answer the request for information fully, in accordance with the principle of good administration.”*

At present, applicants locate the documents they would like to obtain using the websites of the EU institutions and their public registers of documents. However, in an EU that produces tens of thousands of documents annually this can often be very difficult indeed, particularly for those applicants lacking a good working knowledge of EU policy and procedure.

While in practice EU institutions do often accept and respond to requests where the applicant asks for all the documents concerning a specific subject or issue, it is not clear from the current wording of Article 6 that this is possible.

Statewatch’s proposed amendment to the EU Regulation would expressly establish the right of all applicants to lodge FOI requests and place an obligation on the EU institutions to locate the relevant documents.

This new right would complement the widely used regime of access to documents established under the Regulation since 2002. Public registers of documents - especially those of the Council of the European Union and the European Parliament - allow the tracking of the detailed workings of EU institutions both in terms of policy-making and, equally important, of implementation and practice. Public registers are an essential means of checking that the “information” made available is not partial, limited or tailored to the institution’s perspective and are a crucial element in ensuring meaningful democratic accountability.

Tony Bunyan, Statewatch Director, comments:

*“There is sometimes a debate about whether a system of freedom of information requests on a specific subject is better or worse than the EU system of public registers of documents and the right of access to them. This is a unnecessary debate because both are clearly needed to ensure the greatest possible public access to EU information/ documents.*

*Think of going into a public library. Under FOI you go to the front desk and ask for books on the topic you are interested in and the librarian goes away to find them for you. Under the public register of documents system you go into the library yourself and wander around the shelves to find what you are looking for - often making unexpected discoveries and connections. Both systems have their strengths, that is why they are complementary.*

*If our amendment is accepted, and as long as the current definition of a “document” together with the obligation on EU institutions to provide public registers listing the documents held are maintained, then we could at last be on the road to the new era of openness that the EU has long promised.”*

## **Background**

### **A. “Article 6 - Applications**

- 1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.*
- 2. If an application is not sufficiently precise, the institution shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents.*
- 3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.*
- 4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.”*

## **B. Two complementary systems of access**

- **Freedom of Information (FOI)** is based on the applicant making a request concerning a subject or issue with the onus on the institution to locate the relevant documents. Many countries with FOI systems do **not** have public registers of documents – so it can be difficult finding out what documents are held and what subjects or issues are covered.

- **Access to documents:** the EU Regulation is based on public registers which list the documents held by an institution and where the applicant find and request the documents they want to get a copy of. Public registers are excellent for finding all the documents regarding a subject or issue and for locating other documents from related areas. Applicants can make “FOI-style” requests but this is not widely known – hence the proposed amendment.

## **C. Full documentation on the proposed changes to the Regulation can be found on:**

Statewatch's Observatory: the Regulation on access to EU documents: 2008-2009:

<http://www.statewatch.org/foi/observatory-access-reg-2008-2009.htm>

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