

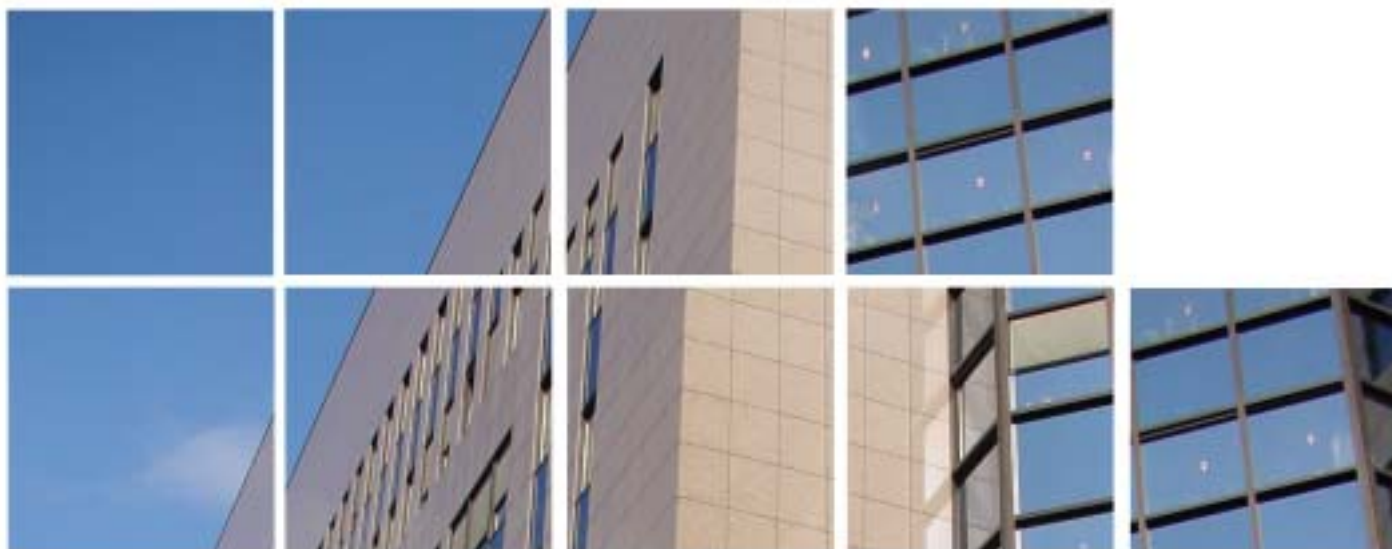


EN

COUNCIL OF
THE EUROPEAN UNION

GENERAL SECRETARIAT
DGF

Council Annual report on access to documents - 2002



APRIL 2003

Council Annual report
on access to documents
- 2002

APRIL 2003

This brochure contains the first Council annual report on the implementation of Regulation (EC) No 1049/2001 regarding public access to documents which was adopted by the Council on 8 April 2003.

The report covers the period from the entry into force of the Regulation (3 December 2001) to 31 December 2002.

It presents the regulatory, administrative and practical adaptations made by the Council to comply with the Regulation.

It also gives information on the Council public register of documents as well as relevant statistics on public access to documents.

In addition the report highlights the key developments of the period and reviews complaints submitted to the European Ombudsman and the case which gave rise to a judgment of the Court of First Instance.

Additional information on access to Council documents as well as on other transparency issues can be found on the Internet webpage <http://ue.eu.int/en>, "Transparency" section.

**ANNUAL REPORT OF THE COUNCIL ON THE IMPLEMENTATION OF
REGULATION NO 1049/2001 OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL OF 30 MAY 2001 REGARDING PUBLIC ACCESS TO
EUROPEAN PARLIAMENT, COUNCIL AND COMMISSION DOCUMENTS**

Article 17(1) of Regulation No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents 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*".

I. REGULATORY, ADMINISTRATIVE AND PRACTICAL ADAPTATIONS

In order to comply with Regulation No 1049/2001, the Council made adaptations to its Rules of Procedure and internal instructions as well as to its administrative practices. It also ensured that the public register of Council documents complies with the requirements of the Regulation.

1. Rules of Procedure and internal instructions

- Council's Rules of Procedure

Article 18(1) of Regulation No 1049/2001 lays down that "*Each institution shall adapt its rules of procedure to the provisions of this Regulation. The adaptations shall take effect from 3 December 2001*".

By the Decision of 29 November 2001 which entered into force on 3 December 2001, the Council amended its Rules of Procedure by adding Annex III (which became Annex II with the new amendments to the Council's Rules of Procedure of 22 July 2002¹) entitled "Specific provisions regarding public access to Council documents".

¹ OJ L 230, 28.8.2002, p. 7.

In order to apply Regulation No 1049/2001, the Council in particular added provisions to the Rules of Procedure which dealt with the following aspects: documents directly accessible to the public, processing of initial and confirmatory applications, requests for consultation received from other institutions or from Member States and procedures for consultation as regards third-party documents.

As regards third-party documents, in the few cases where the Council consulted a third party who was the author of the document requested, the procedure did not present any difficulties.

Finally, consultation with other institutions was carried out in accordance with the administrative memorandum of understanding agreed between the services of the three institutions (see item III (2) below).

- Internal instructions

After the entry into force of Regulation No 1049/2001 and the amendments to the Council's Rules of Procedure, briefing sessions were organised for the officials of the General Secretariat of the Council in order to familiarise them with the new rules.

In the light of the initial experience of the implementation of these rules, the Deputy Secretary-General of the Council issued a staff note (CP No 134/02 of 24 September 2002) which contains practical instructions on the production of various categories of documents, in particular the choice of code or classification to give them, and states the implications for access to documents. This note also lists the types of documents that must be made directly accessible to the public.

Moreover, this staff note sets out the provisions, implemented by the Council as from 27 April 2001, which aim to release documents after a common position has been adopted, a joint text has been approved by the Conciliation Committee or a legislative act has been adopted definitively. This includes all earlier documents relating to that act which are not covered by one of the exceptions laid down by the Regulation, apart from opinions of the Legal Service and documents reflecting the position of a delegation when that State has asked the General Secretariat not to make them accessible to the public.

In January 2003, a transparency guide was drawn up for delegates and Secretariat staff, including a significant section dealing with public access to documents. The aim of this guide is to set out the principles and instruments that apply as regards access to documents, and to provide practical information on procedures for the implementation of these instruments.

At the same time, a new series of training sessions was organised to make Council officials responsible for the production of documents more familiar with Council policy and practice in the field of public access to documents.

2. *Practical adaptations*

Although the time limit for reply has been made considerably shorter compared with the previous system, (reduced to 15 working days, with an additional 15 working days if necessary), the General Secretariat meets this time limit when processing initial applications. The time limit for confirmatory application is also met, despite the stages to be completed (examination by the Working Party on Information, then approval by Coreper and the Council). Moreover, it is only exceptionally that the time limit is extended, in particular for applications concerning a large number of documents.

The Council also systematically examines the possibility of giving partial access to the documents requested, as laid down in Article 4(6) of Regulation No 1049/2001. This practice ensures greater transparency in particular in legislative documents: as a general rule, the Council gives access to the content of preparatory documents regarding legislative acts even if they are still under discussion, including the positions of delegations, excluding only those parts which allow delegations to be identified.

3. *Public register of documents*

Article 11(3) of Regulation No 1049/2001 required institutions to create a register to be operational by 3 June 2002 at the latest.

In fact, the public register of Council documents had been in operation since 1 January 1999. In accordance with Article 11(1) of Regulation No 1049/2001, the register is accessible in electronic form and references to documents are added immediately via an automatic archiving system that includes documents in the register as soon as they are produced.

The register allows access to the full text of certain documents; it also contains references to many other documents.

The content of the categories of documents listed below can be accessed directly via the register:

- provisional agendas for Council meetings and for its preparatory bodies (with the exception of certain bodies dealing with military and security questions);
- documents originating from a third party which have been made public by the author or with his consent;
- in the legislative field, "I/A" and "A" item notes submitted to Coreper and/or the Council, as well as draft legislative acts, draft common positions and joint texts approved by the Conciliation Committee to which they refer;
- any other text adopted by the Council which is intended for publication in the Official Journal;
- documents regarding a legislative act after a common position has been adopted, a joint text has been approved by the Conciliation Committee or a legislative act has been adopted definitively;
- documents which have been made available to a member of the public who made an application.

Moreover, any non-sensitive document submitted to the Council or to one of its preparatory bodies which is to serve as a basis for deliberations, could influence the decision-making process or reflects the progress made on a given subject is referred to in the register. For sensitive documents, the author specifies the references which could possibly be included in the register.

In 2002, approximately 900 000 persons logged onto the internet site of the register and consulted 4 600 000 pages.

By 31 December 2002, the register referred to 375 154 documents, including all languages; the content of 168 647 of these documents could be accessed directly. Partially accessible documents bear the code P/A in the register: their content is not directly accessible, but the person consulting the register is informed that he can submit an application for access to the relevant section of the General Secretariat of the Council. By 31 December 2002, the register contained 2944 documents bearing the code P/A.

As regards sensitive documents, for the period concerned a total of 250 "TRES SECRET UE/EU TOP SECRET", "SECRET UE" and "CONFIDENTIEL UE" documents were produced (no "TRES SECRET UE/EU TOP SECRET", 12 "SECRET UE" and 238 "CONFIDENTIEL UE") in the original language; 77 of these documents (no "SECRET UE" and 77 "CONFIDENTIEL UE") are referred to in the register.

II. ANALYSIS OF REQUESTS FOR ACCESS

Requests from the public for access to Council documents are processed in the initial phase by the General Secretariat of the Council. In the event of a total or partial refusal of access by the General Secretariat of the Council to a document, the applicant may submit a confirmatory application asking the institution to reconsider its position. In the event of a total or partial refusal of a confirmatory application, the applicant may lodge a complaint with the European Ombudsman and/or institute proceedings before the Court of First Instance of the European Communities.

Annex I to this report provides statistics on public access to Council documents for the period of 3 December 2001 to 31 December 2002; the comparative figures for the period 1999-2002 are in Annex II.

During the reference period, 10 330 documents were requested from the Council, following 2 491 requests for access received from the public. Compared to previous years, the number of requests has risen sharply – it practically doubled between 2001 (1 234) and 2002 (2 394) – while the number of documents requested increased very slightly (8 090 in 2001 compared with 9 317 in 2002). Several factors explain this situation:

- if the number of documents directly accessible to the public increases, the number of documents requested decreases;
- requests are increasingly centring on documents classified "RESTREINT UE" or on documents which are sensitive within the meaning of Regulation No 1049/2001 ("CONFIDENTIEL UE", "SECRET UE" and "TRES SECRET UE/EU TOP SECRET" documents).

As far as initial applications are concerned, applicants are principally students and researchers (23,5%). The industrial and commercial sector (14,5%), pressure groups (13%) and lawyers (10,5%) are also among the best represented social and professional categories. Applicants are not required to give their identity or the reasons for their application, usually sent via email, so the profession of a significant percentage (22%) of applicants is unknown. In the case of confirmatory applications, most applicants are also students or researchers (31,8%). Journalists account for 18,2% of applicants at the confirmatory stage.

As regards the geographical distribution of applicants, it should be noted that the majority of initial applications come from Belgium (27,5%), Germany (13%) and the United Kingdom (9,5%). Applications originating from third countries (outside the EU) represent 6,5% of the total. The vast majority of confirmatory applications come from the United Kingdom (40,9%).

As regards the fields covered by the applications, applicants have a marked interest in justice and home affairs (24,5%). Then, starting with the most common, applications are made for documents on the internal market (14,5%), economic and monetary policy (10,5%), external relations and CFSP (8,5%) and the environment (8%).

During the reference period, the General Secretariat examined 10 330 documents and made 9 114 of them available in the initial phase. Only 44 confirmatory applications were made (i.e. less than 2% of initial applications), as a result of which the Council decided to disclose an additional 89 documents (24 totally and 65 partially).

Number of refusals of access

Out of the 10 330 documents requested during the observation period, 1 127 were refused (initial and confirmatory phases taken together), giving a rate of access (total and partial access taken together) of 89,1%. It should be noted that the practice of partial access allows the Council to increase greatly the number of documents disclosed: the rate of access of 77,8% (total access only) reaches 89,1% when documents approved for partial access are taken into account.

Grounds for refusal

With initial applications, the grounds for refusal most often invoked is the protection of the decision-making process, which accounts for over a quarter of refusals (27,9%), followed by the protection of the public interest as regards international relations (24%), the protection of the public interest as regards public security (22,9%) and the protection of legal advice (12,2%). In 10,3% of cases, several grounds for refusal were invoked: therefore, protection of the decision-making process is often given in conjunction with protection of the public interest as regards public security (5,3%) or international relations (4,8%).

As regards confirmatory applications, protection of the decision-making process is invoked in 37,5% of cases, and in 14,3% of refusals these grounds are given in conjunction with the protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State.

The protection of court proceedings and legal advice are the grounds invoked in 25% of refusals at the confirmatory stage. In fact, documents or parts of documents in which an opinion of the Legal Service on legal questions is reproduced are not made available to the public pursuant to Article 4(2) of the Regulation, unless there is an overriding public interest in disclosure. The Council feels that this condition is not met by the simple fact that the disclosure of a document containing an opinion of the Legal Service would be in the general interest of transparency of the decision-making process of the Council. The independent advice provided for the Council by the Legal Service allows the Council to ensure that its acts comply with Community law and to further discussion on the legal aspects of a dossier. If the Council were to lose that instrument, the efficiency of its work would be compromised. This is why it is in the public interest that the Council should have access to independent legal advice. Moreover, the disclosure of the opinions of the Legal Service could undermine legal certainty and the stability of the Community's legal system, and the insecurity that could result regarding the legality of legislative acts would have detrimental consequences for the public interest. Nevertheless, the Council interprets and applies the exception laid down in Article 4(2) of the Regulation in a limited manner, as it does any other exception to the right of access, so as not to operate against the general principle of public access to Council documents.

As regards documents originating from Member States, the Council made a distinction between documents issued by Member States (considered to be third-party documents) and documents originating from Member States acting in their capacity as Council members (considered to be Council documents). Therefore, documents drawn up by Member States in which they speak as Member States and not as Council members in the course of the Council's work are considered to be third-party documents. As a result of the limited interpretation of the idea of a document from a Member State considered to be a third party, the Council has very rarely invoked as grounds for refusal the exception in Article 4(5) (lack of prior agreement of the Member State which is the author of the document).

III. KEY DEVELOPMENTS

1. *The Interinstitutional Committee*

Article 15(2) of Regulation No 1049/2001 lays down that "*The institutions shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents.*"

The first meeting of the Committee was on 13 March 2002 in Strasbourg in the presence of Mr Cox, President of the European Parliament, Mr Piqué, President-in-Office of the Council of the European Union and Mrs Loyola de Palacio, Vice-President of the European Commission. As regards working methods, it was decided that:

- at forthcoming meetings, the Presidents of the institutions could be represented by a person of their choice;
- meetings would take place at each of the institutions in turn, in the order laid down in the Treaty;
- draft agendas would be drawn up by the Secretaries-General;
- meetings of the Committee would be chaired by the President of the institution organising the meeting;
- the draft minutes would be prepared by the institution organising the meeting.

The following meeting was organised by the European Parliament and took place on 10 April 2002 in Strasbourg in the presence of Mrs Cederschiöld, Vice-President of the European Parliament, Mr de Miguel, State Secretary for European Affairs representing the Council and Mr Barnier, member of the Commission. The following subjects were addressed:

- campaign informing citizens and register: it was decided to draw up an interinstitutional booklet concerning public access to documents of the European Parliament, the Council and the Commission;
- access to proposals for legislative acts in accordance with Article 12 of the Regulation;
- interinstitutional cooperation in the application of Article 4(4) of the Regulation and development of good administrative practices within the institutions (Article 15 of the Regulation);
- application of the Regulation by existing and future agencies and bodies;
- inventory by the Commission of existing rules which contravene the Regulation.

The third meeting was organised by the Council and took place on 9 July 2002 in the presence of Mrs Cederschiold for the European Parliament, Mr Haarder for the Council and Mrs de Palacio for the Commission. The following items in particular were addressed:

- public registers of the three institutions;
- interinstitutional booklet on public access to documents;
- signing of the memorandum of understanding between the services of the European Parliament, the Council and the Commission in order to strengthen administrative cooperation between the institutions;
- amendment of the Regulation on historical archives;
- amendment of the statutes of agencies.

2. *Mechanisms for consulting third parties*

- The memorandum of understanding between the services of the European Parliament, the Council and the Commission regarding public access to documents

An administrative memorandum of understanding was signed by the services of the three institutions on 9 July 2002. Its aim was to allow the services of the institutions to ensure swift handling of applications for access to documents held by one institution but drawn up or forwarded by another institution. It introduced a mechanism by which the institution which receives the request for access consults the institution from which the document originates and asks it to communicate its position on the disclosure of the document within five days. Contact points for sending the request for consultation were appointed in each institution.

- Consultation of the Member States

A similar mechanism (contact points and rapid communication of a position) was set up to allow the institutions to consult Member States when they receive a request for access to documents of the Member States and consultation of the author of the document becomes necessary.

3. *Interinstitutional Agreement between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy*

Article 9(7) of Regulation No 1049/2001 provides that the Council must "*inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions*".

An agreement in the field of security and defence policy was concluded with the European Parliament on 20 November 2002 (OJ C 298, 30.11.2002, p. 1).

4. *Interinstitutional booklet on access to documents*

A booklet entitled "Access to the documents of the European Parliament, the Council and the Commission: Instructions" was drawn up by the "Access to documents" departments of the three institutions in cooperation with the Office for Publications. It is for the attention of the public and was designed to be a set of practical instructions to facilitate access to the documents of the three institutions. It summarises the principles set out in the Regulation and describes how to submit an application for access. It also provides a list of useful addresses (public registers of documents, data bases, Ombudsman, Court of First Instance of the European Communities ...).

IV. COMPLAINTS SUBMITTED TO THE EUROPEAN OMBUDSMAN AND LEGAL ACTION

A) COMPLAINTS SUBMITTED TO THE EUROPEAN OMBUDSMAN

Given below are six complaints in which Regulation No 1049/2001 was applied during the reference period.

1. Complaint 917/2000/GG of 9 July 2000

Initially, the complainant asked the Council to send him all the meeting documents, non-papers or unnumbered documents submitted at specific meetings and not referred to in the meeting agendas. The Council identified 85 documents and gave access to 68 of them.

In his complaint, the complainant reproached the Council for not providing all the documents requested and for neither making nor providing a list of the documents requested.

On 1 March 2001, in his draft recommendation, the Ombudsman asked the Council to give access to the documents requested and keep a list of all the documents submitted to the Council or to record them and make the list or the register available to the public.

On 30 November 2001 the Ombudsman submitted a special report to the European Parliament repeating his recommendation. Before the European Parliament's Committee on Petitions, the Council pointed out that the register complied with Regulation No 1049/2001 and that instructions (internal note of the Deputy Secretary-General of 26 June 2001) had been sent to all the directorates-general. These instructions required all documents submitted to the Council or its preparatory bodies to serve as a basis for deliberations or which might influence the decision-making process or reflect the progress made on a given subject, should immediately be made into official documents or appear in a later document (outcome of proceedings) or an annexed list.

On 30 October 2002 the Committee on Petitions submitted a motion for a Resolution to the European Parliament supporting the Ombudsman's recommendation. The European Parliament has not yet communicated its Resolution to the Council.

2. Complaint 1542/2000/PB of 25 October 2000

The complaint concerns two Opinions of the Council Legal Service, one regarding a judgment of the Court of First Instance and the other a proposal for a Regulation on public access to documents of the European Parliament, the Council and the Commission. The Council refused access to both documents on the basis of Article 4(1) of Decision 93/731/CE (protection of the public interest).

In his draft recommendation of 18 October 2001, the Ombudsman felt that in refusing access to the Opinion of the Legal Service regarding the Court's judgment, the Council was not guilty of maladministration. On the other hand, the Ombudsman considered that the second opinion concerned a question raised in the context of the legislative procedure and that the public should have access to it when the legislative procedure was completed.

In its detailed opinion of 19 March 2002, the Council maintained its refusal, taking Article 4(2) of Regulation No 1049/2001 (protection of legal advice) as a basis and invoking the lack of overriding public interest in disclosure.

On 12 December 2002 the Ombudsman submitted a special report to the European Parliament urging it to adopt a resolution in accordance with his recommendation. The case is still in progress.

3. Complaint 573/2001/IJH of 19 April 2001

The complaint regards the refusal of access to the second annual report of the Code of Conduct Group (Business taxation). The Council refused access to this document under Article 4(2) of Decision 93/731 (protection of the confidentiality of the Council's proceedings). Consequently, the Council and the Ombudsman agreed to apply Regulation No 1049/2001.

In his draft recommendation of 17 June 2002, the Ombudsman asked the Council to give access to the document involved since the question could be considered to relate to the legislative activities of the Council. Moreover, he recommended that the Council take into consideration the argument of the complainant whereby it is in the public interest for companies to be able to obtain precise financial information, and that this overrides the protection of the decision-making process of the institution.

On 14 October 2002 the Council forwarded a detailed opinion to the Ombudsman. In this, it showed that the second report, completely different from the first that was purely factual and had been made available to the public, contained the outcome of proceedings of a working party and would under no circumstances become a legislative act. The Council did however agree to give partial access to the document. The case is still in progress.

4. Complaint 648/2002/IJH of 8 April 2002

The complaint concerned documents on the proposal for a Regulation of the Council regarding the implementation of competition rules laid down in Articles 81 and 82 of the EC Treaty. The Council had allowed partial access to 15 documents on the basis of Article 4(3) of Regulation No 1049/2001 (protection of the decision-making process). The complainant felt that the Council had been too restrictive.

Having consulted the documents concerned at the Council's offices on 9 October 2002, the Ombudsman asked the Council to give wider access to the partially disclosed documents.

A political agreement having in the meantime been reached within the Council on the proposal for a Regulation, the Council made all the documents listed in the complaint fully available on 19 December 2002. The Ombudsman closed the file on 28 January 2003.

5. *Complaint 1015/2002/PB of 29 May 2002*

The complaint covers three points:

- failure by the Council to provide a list of all the committees and working parties of the European institutions in which the representatives of the Council and the Member States participate and the persons participating in these bodies;
- failure by the Council to provide a list of the persons reimbursed for their travel expenses or having received a per diem allowance for meetings within the European institutions;
- refusal of access to three Opinions of the Legal Service.

On 1 October 2002 the Council replied to the Ombudsman that

- Regulation No 1049/2001 only covered existing documents and that it therefore could not give access to a list which did not exist and which would be of no use to the General Secretariat on an administrative level;
- the second list did not exist and reimbursements were given on the basis of real expenses, with the Court of Auditors carrying out regular checks in this area;
- partial access to the three opinions of the Legal Service could be given.

The case is still in progress.

6. *Complaint 1795/2002/IJH of 14 October 2002*

The initial application regarded agendas and minutes of the Praesidium of the Convention. The Council replied that these documents were drawn up by a body other than the Council and that it did not hold them; it therefore felt that the application did not come under Regulation No 1049/2001 and forwarded it to the Convention.

Dissatisfied, the applicant lodged a complaint with the Ombudsman against the Council and the European Convention.

On 11 March 2003, the Ombudsman concluded that the case did not involve maladministration by the Council and was closed as far as the Council was concerned.

B) LEGAL ACTION

The only case which gave rise to a judgment of the Court of First Instance during the reference period is the *Kuijjer v Council* case (T-211/00). However, the decision of the Court of 7 February 2002 was not based on Regulation No 1049/2001 but on Decision 93/731/EC. In effect, the legal action sought to annul the Council's decision refusing the applicant access to certain documents from the Centre for Information, Discussion and Exchange on Asylum (Cirea). The Court judged that the Council had "*committed a manifest error of assessment in maintaining that the reasons on which it relied in order to refuse access to the reports at issue apply to the documents in their entirety*" and concluded: "*the Council must grant partial access to the documents in question*". The Court also stated that the Council had "*erred in law*" by refusing access to the list of contact persons, since its decision was in breach of the principle of proportionality. It therefore annulled the contested decision.

After reexamining the request, the Council gave full access to certain documents, partial access to others (certain reports and list of contact persons) and refused access to one document.

**STATISTICS ON PUBLIC ACCESS TO COUNCIL DOCUMENTS FOR THE PERIOD
FROM 3 DECEMBER 2001 TO 31 DECEMBER 2002**

1. Number of applications under Regulation No 1049/2001

3.12.2001 to 31.12.2002
2 491

2. Number of documents covered by initial applications

3.12.2001 to 31.12.2002
10 330

3. Documents supplied by the General Secretariat of the Council in the first place

3.12.2001 to 31.12.2002
9 114 ¹

4. Number of confirmatory applications

3.12.2001 to 31.12.2002
44

5. Documents released by the Council in response to confirmatory applications

3.12.2001 to 31.12.2002
89 ²

6. Number of refusals

3.12.2001 to 31.12.2002
1 127

7. Document access rate (initial and confirmatory applications)

3.12.2001 to 31.12.2002	
77,8% ³	89,1% ⁴

¹ 8 017 released in full and 1 097 released in part.

² 24 released in full and 65 released in part.

³ Released in full.

⁴ Released in full or in part.

8. Professional background of applicants

	Initial applications	Confirmatory applications
Members of the European Parliament ¹	2,5%	6,8%
Pressure groups	13%	4,6%
Lawyers	10,5%	13,6%
Journalists	2%	18,2%
Students and researchers	23,5%	31,8%
Trade and industry	14,5%	9,1%
Libraries and documentation centres	2,5%	-
Non-Community institutions and non-member countries' representations	4,5%	-
Miscellaneous	5%	2,3%
Unspecified	22%	13,6%

¹ Since 2002, MEPs' assistants have been included in this heading.

9. Geographical breakdown of applicants

	Initial applications	Confirmatory applications
Belgium	27,5%	15,9%
Denmark	2%	6,8%
Germany	13%	15,9%
Greece	1%	–
Spain	6,5%	2,3%
France	7%	6,8%
Ireland	1,5%	–
Italy	4,5%	2,3%
Luxembourg	1%	–
Netherlands	5%	4,5%
Austria	2%	–
Portugal	2%	–
Finland	0,5%	–
Sweden	2%	2,3%
United Kingdom	9,5%	40,9%
Non-member countries (USA, Norway, Switzerland and Japan)	6,5%	–
Unspecified	8,5%	2,3%

10. Subject matter of applications ¹

	3.12.2001 to 31.12.2002
Legal issues	2%
Agriculture and fisheries	4,5%
Internal market	14,5%
External relations and CFSP	8,5%
Operation of the institutions	1,5%
Economic and monetary policy	10,5%
Justice and home affairs	24,5%
Environment	8%
Social policy	3,5%
Transport	5%
General policy issues (IGC and European Council)	1,5%
Health and consumer protection	2,5%
Transparency	1%
Other	12,5%

¹ A number of applications covered more than one area.

11. Reasons for refusing access: initial applications

	3.12.2001 to 31.12.2002
Protection of the public interest as regards public security	22,9%
Protection of the public interest as regards defence and military matters	0,1%
Protection of the public interest as regards international relations	24%
Protection of the public interest as regards the financial, monetary or economic policy of the Community or of a Member State	0,7%
Protection of privacy and integrity of the individual (protection of personal data)	0,3%
Protection of court proceedings and legal advice	12,2%
Protection of the Council's decision-making process	27,9%
A combination of reasons	10,3%
<ul style="list-style-type: none"> – Protection of the public interest as regards public security and protection of the Council's decision-making process – Protection of the public interest as regards international relations and protection of the Council's decision-making process – Protection of the public interest as regards the financial, monetary or economic policy of the Community or of a Member State and protection of the Council's decision-making process – Protection of court proceedings and legal advice and protection of the Council's decision-making process 	<p>5,3%</p> <p>4,8%</p> <p>0,1%</p> <p>0,1%</p>
Not a Council document	0,5%
Other reasons	1,1%

12. Reasons for refusing access: confirmatory applications

	3.12.2001 to 31.12.2002
Protection of the public interest as regards public security	5,4%
Protection of the public interest as regards defence and military matters	0%
Protection of the public interest as regards international relations	7,1%
Protection of the public interest as regards the financial, monetary or economic policy of the Community or of a Member State	0%
Protection of privacy and integrity of the individual (protection of personal data)	0%
Protection of court proceedings and legal advice	25%
Protection of the Council's decision-making process	37,5%
A combination of reasons	25%
<ul style="list-style-type: none"> – Protection of the public interest as regards public security and protection of the Council's decision-making process – Protection of the public interest as regards international relations and protection of the Council's decision-making process – Protection of the public interest as regards the financial, monetary or economic policy of the Community or of a Member State and protection of the Council's decision-making process – Protection of the public interest as regards public security and protection of the purpose of inspections, investigations and audits 	<p>3,6%</p> <p>5,3%</p> <p>14,3%</p> <p>1,8%</p>
Not a Council document	0%
Other reasons	0%

13. Confirmatory applications: summary of delegations' votes made public (3.12.2001 to 31.12.2002)

For 15 applications out of a total of 44, the breakdown of votes made public is as follows:

	Legal questions (Opinions of the Legal Service)	Internal market (competition)	Justice and home affairs	TOTAL VOTES AGAINST (per delegation)
B				–
DK	12	2		14
D				–
EL	1			1
E		2		2
F	1	2		3
IRL				–
I				–
L				–
NL	7		1	8
A				–
P	1	2		3
FIN	8	2	1	11
S	12	1	1	14
UK				–

**STATISTICS ON PUBLIC ACCESS TO COUNCIL DOCUMENTS
FROM 1999 TO 2002**

1. Number of applications under Regulation No 1049/2001

1999	2000	2001	2002
889	1 294	1 234	2 394

2. Number of documents covered by initial applications

1999	2000	2001	2002
6 747	7 032	8 090	9 317

3. Documents supplied by the General Secretariat of the Council in the first place

1999	2000	2001	2002
5 406	5 862	7 101	8 165 ¹

4. Number of confirmatory applications

1999	2000	2001	2002
43	38	21	43

5. Documents released by the Council in response to confirmatory applications

1999	2000	2001	2002
238	37	33	89 ²

6. Document access rate (initial and confirmatory applications)

1999	2000	2001	2002	
83,7%	83,9%	88,2%	76,4% ³	88,6% ⁴

¹ 7 097 released in full and 1 068 released in part.

² 24 released in full and 65 released in part.

³ Released in full.

⁴ Released in full or in part.

7. Professional background of applicants

	1999	2000	2001	2002
Members of the European Parliament and their assistants ¹	2%	2%	0,5%	2,5%
Pressure groups	8%	10%	7,5%	13%
Lawyers	9%	9%	9%	10,5%
Journalists	2%	2%	2%	2%
Students and researchers	24%	25%	27%	23,5%
Trade and industry	10%	10%	14%	14%
Libraries and documentation centres	–	–	–	2,5%
Non-Community institutions and non-member countries' representations	–	–	–	4,5%
Miscellaneous	45%	42%	40%	5,5%
Unspecified ²	–	–	–	22%

¹ Since 2002, MEPs' assistants have been included in this heading.

² Prior to 2002, MEPs' assistants, libraries, non-Community institutions, non-member countries' representations and unspecified were all included in "Miscellaneous".

8. Geographical breakdown of applicants

	1999	2000	2001	2002
Belgium	34%	28%	27,5%	27,5%
Denmark	2%	1%	1%	2%
Germany	11%	13%	14%	12,5%
Greece	1%	0,5%	0,5%	1,5%
Spain	4,5%	5,5%	6,5%	6,5%
France	9%	9%	6,5%	7%
Ireland	1%	1%	1%	1,5%
Italy	5%	6,5%	8,5%	4,5%
Luxembourg	1%	0,5%	1,5%	1%
Netherlands	6%	4,5%	4,5%	4,5%
Austria	1,5%	1%	2,5%	2%
Portugal	1,5%	1%	1%	2%
Finland	1%	1%	1%	0,5%
Sweden	2%	1,5%	2%	2%
United Kingdom	9%	9%	9%	9,5%
Non-member countries (USA, Norway, Switzerland and Japan) ¹	10,5%	17%	13%	6,5%
Unspecified	–	–	–	9%

¹ Prior to 2002, unspecified origins were included in this heading.

9. Subject matter of applications ¹

	1999	2000	2001	2002
Legal issues	2%	5%	3%	2%
Agriculture and fisheries	6%	5%	4,5%	4,5%
Internal market	5%	10%	14,5%	15%
External relations and CFSP	9%	7%	7,5%	8,5%
Operation of the institutions	4%	4%	3,5%	1,5%
Economic and monetary policy	6%	10%	8%	10,5%
Justice and home affairs	37%	29%	29,5%	24,5%
Environment	9%	6%	4,5%	8%
Social policy	2%	6%	7%	3,5%
Transport	2%	3%	3,5%	5%
General policy issues (IGC and European Council)	1%	2%	1%	1,5%
Health and consumer protection	–	–	–	2,5%
Transparency	–	–	–	1%
Other ²	17%	13%	13,5%	12%

¹ A number of applications covered more than one area.

² Prior to 2002, transparency, health and consumer protection were included in this heading.

10. Reasons for refusing access: initial applications

	1999	2000	2001	2002
Protection of the public interest as regards public security	47%	40,7%	41,9%	22,9%
Protection of the public interest as regards defence and military matters				0,1%
Protection of the public interest as regards international relations				24,5%
Protection of the public interest as regards the financial, monetary or economic policy of the Community or of a Member State				0,7%
Protection of privacy and integrity of the individual (protection of personal data)				0,2%
Protection of court proceedings and legal advice				11,4%
Protection of the Council's decision-making process	30%	33,1%	44,5%	28%
A combination of reasons	1%	0,1%	0,2%	10,5%
Not a Council document	19%	25,6%	12,1%	0,5%
Other reasons	3%	0,5%	1,3%	1,2%
